parties have raised issues related to Verizon's electronic wholesale bill. Because this issue was also in substantial dispute during our review of Verizon's section 271 application for Pennsylvania, and because our finding that Verizon provided nondiscriminatory access to wholesale billing systems was a "close call,"[206] we must ensure that this system in New Jersey, at a minimum, performs at the same level as the system that was approved in Pennsylvania.

77. As in prior Commission orders, we focus our review on those OSS issues in controversy, and do not address each OSS element in detail where our review of the record satisfies us there is little or no dispute that Verizon meets the nondiscrimination requirements.[207] Here, our discussion focuses on comments regarding the sufficiency, accuracy and reliability of the commercial data submitted; the sufficiency and blindness of KPMG's testing; the timeliness and accuracy associated with Verizon's delivery of order processing notifiers; wholesale billing practices; and issues raised regarding service order flow-through.

a. Third-Party Testing

78. Under the direct supervision of the New Jersey Board, KPMG conducted an independent, wide-ranging review of Verizon's OSS for three test categories: transaction validation and verification; policies and procedures review; and performance metrics reporting.[208] KPMG performed military-style testing of the five functional OSS domains, under which Verizon would memorialize and implement its response to any identified problem, and KPMG would re-test the associated activities until all 536 test points were satisfied.[209] This testing model is substantially similar to the tests that KPMG conducted in New York, Massachusetts, and Pennsylvania, and that the Commission has relied on in its decisions that Verizon's OSS met the requirements of checklist item two in those states.[210] As the Department of Justice recognized, the KPMG test was comprehensive,[211] and the New Jersey Board noted that New

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all OSS domains. Among other tasks, the SOP edits new orders, routes orders to the appropriate downstream provisioning systems, cycles completed orders to Verizon's billing systems for updating, and directs Verizon's gateway systems to issue completion notices to competitive LECs. AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 31-35.

[206] *Verizon Pennsylvania Order*, 16 FCC Rcd. at 17427, para. 15.

[207] *See, e.g.*, *id.* at 17425, para. 12.

[208] KPMG Final Report at 17.

[209] *Id.* at 17, 19, 22.

[210] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17426-27, 17438-39, paras. 14, 33; *Verizon Massachusetts Order*, 16 FCC Rcd at 9012, para. 46; *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, para. 100.

[211] Department of Justice NJ I Evaluation at 3.

Jersey is the first state to conclude the test with a clean slate of no outstanding Exceptions or Observations.[212]

79. In assessing the persuasiveness of a third-party review, the Commission looks to the qualifications, experience and independence of the third party and the conditions and scope of the review itself.[213] If the review is limited in scope or depth or is not independent and blind, the Commission will give it minimal weight.[214] As explained below, because we find KPMG's test to be sufficiently broad and objective, we place significant reliance on the conclusions generated from that test to find that Verizon's OSS in New Jersey is in compliance with the checklist.[215]

(i) End-to-End Volume Testing

80. AT&T questions KPMG's evaluation of each test domain (*i.e.*, pre-ordering, provisioning, billing, and maintenance and repair) separately rather than on the end-to-end basis necessary to gauge "real world" commercial usage.[216] In particular, AT&T argues that the lack of volume testing past the point when the local service request confirmation (LSRC) is issued excludes the downstream provisioning and billing processes, and therefore omits critical functions of the otherwise untested SOP unique to New Jersey.[217] AT&T also points to misses for certain performance measurements, such as for the benchmark and parity of billing completion timeliness, as evidence of the shortcomings of the KPMG test.[218] AT&T claims that end-to-end volume testing in New Jersey is warranted based on the problems that Verizon had with its OSS in New York following section 271 approval, despite greater commercial usage in that state.[219]

81. Contrary to AT&T's assertions, KPMG's testing did include end-to-end testing and evaluation of integrated operations, including examination at a projected "normal" volume equivalent to the submission of 1.3 million orders per month into the New Jersey SOP.[220]

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212 New Jersey Board NJ I Comments at 30.

213 Appendix C at para. 31.

214 *Id.*

215 We address in Section III.B.2.d below the testing issues relating specifically to billing.

216 AT&T NJ I Comments at 17-18; AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 21-28.

217 AT&T NJ I Comments at 18; AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 26-27; KPMG Final Report at 345 (stating that the billing evaluation "did not rely on volume testing").

218 *See* AT&T NJ I Comments at 19; AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 98-107.

219 AT&T NJ I Comments at 19 n.10; AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 25.

220 Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 9 (noting that the New Jersey SOP went beyond the anticipated load of its own state and successfully processed the entire regional volume). Of the more than 185 different scenarios used to structure transaction testing, some "were specific to a particular domain, while others spanned multiple domains providing an end-to-end test of Verizon NJ's systems and processes. Variations of each (continued....)

Further, we do not give credence to the argument that a failure to meet certain limited benchmarks demonstrates that KPMG's testing did not properly evaluate the SOP. In prior decisions, isolated metric misses have not compelled the Commission to minimize or disregard third-party testing that was otherwise found to be sufficient in scope and depth,[221] and no commenter has identified a pattern of commercial usage to warrant our reaching such a conclusion here.

82. We find similarly unpersuasive the assertion that Verizon's OSS difficulties with transactions downstream from the LSRC that took place in New York during 2000 demonstrate a need for end-to-end volume testing in New Jersey. Verizon identified that problem as arising from third-party vendor software used in the EDI ordering interface that caused missing or delayed orders, and corrected this not just in New York but throughout the 14-state former Bell Atlantic footprint.[222] The KPMG test for Pennsylvania was more recent and relevant than the one for New York and was substantially similar to the one used in New Jersey, and we have no evidence of any flaw in Verizon's ability to handle greater volumes of actual usage following section 271 approval for Pennsylvania.

(ii) Blindness of Test

83. In its effort to simulate the operational experience of a competitive LEC, KPMG instituted several measures to minimize the likelihood of being recognized by Verizon and receiving any favorable treatment.[223] Among other procedures to advance this test objective, KPMG required that all documents given to it were generally available to other competitors; Verizon did not receive any advance notice of the timing or detailed nature of transactions and test calls; the New Jersey Board randomly monitored telephone calls between KPMG and Verizon; and KPMG established a weekly conference call that included competitors and the New Jersey Board so that competitive LECs could obtain information about test progress and communicate issues of concern.[224]

84. AT&T challenges the test as insufficiently blind to Verizon, asserting that these procedures were inadequate for KPMG to hide its "pseudo-CLEC" identity from Verizon, and

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scenario were executed to test a range of feature/function combinations, and to reach desired transaction volume levels." KPMG Final Report at 18. The pre-order and order volume performance tests projected transaction forecasts and ran at projected normal day volumes, peak day volumes (150% of normal), and stress-test volumes (250% of normal). KPMG Final Report at 129, 133-34.

221 *E.g.*, *Verizon Pennsylvania Order*, 16 FCC Rcd at 17439, para. 34 ("While some of the wholesale billing errors that KPMG identified continue to occur for a time after the KPMG study ended, we find that the recurrence of some errors does not diminish the value of the KPMG study.").

222 Verizon Feb. 25 *Ex Parte* Letter at 4.

223 KPMG Final Report at 19-20.

224 *Id.* at 20. *See also id.* at 16 ("Significant input from the NJ BPU, Verizon NJ, and various CLECs was solicited, received, and considered during the MTP [Master Test Plan] development period.")

that Verizon could have used its advance knowledge to shield KPMG from real-world problems that other competitive LECs face.[225] In addition, AT&T argues that it and other competitors were severely limited in their ability to participate in the testing. Specifically, AT&T notes that, unlike the New Jersey Board and Verizon, it could only monitor and not express opinions during the KPMG weekly calls discussing the status of exceptions and observations, and could only voice concerns during a separate weekly call where KPMG's subject matter experts often did not participate.[226]

85. We conclude that the KPMG test was sufficiently blind to provide us with valuable evidence of the adequacy of Verizon's OSS systems. In addressing KPMG's potential for preferential treatment during the testing process in New York, the Commission previously recognized that "it was virtually impossible for the KPMG transactions to be truly blind," and relied on the efforts of KPMG to maintain blindness to treat the evidence of OSS readiness as persuasive.[227] Because KPMG implemented measures in its New Jersey testing that were substantially similar to those upon which we relied in the *Verizon New York Order*, we conclude here that the KPMG measures that we described above sufficiently obviated the likelihood of favoritism.

(iii) Limited Depth and Scope of Test

86. Finally, we dismiss AT&T's assertions that KPMG's failure to test line splitting, electronic billing, and performance data accuracy preclude the use of the entire KPMG test as evidence of nondiscriminatory OSS.[228] The scope of a third-party test is relevant to the weight we assign to that test, and such a test is not an independent requirement. Our experience in evaluating section 271 applications has shown that OSS functionalities are constantly evolving, and BOCs should not be penalized because substantially improved functionalities come on-line near the conclusion of the testing period or after testing has already concluded.[229] We address nondiscriminatory access to line splitting and electronic billing below, and acknowledge that the KPMG test is not probative to Verizon's showing for either system.[230]

87. With regard to performance data, KPMG did undertake a comprehensive review of Verizon's systems and procedures to measure and report its performance under the Carrier-to-

[225] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 26-27.

[226] *Id.* at paras. 58-59.

[227] *Bell Atlantic New York Order*, 15 FCC Rcd at 3998-99, para. 99.

[228] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 39-54.

[229] Notably, Verizon's BOS BDT billing became available as the bill of record in New Jersey in September 2001, and new line splitting process was made available region-wide in October 2001. *Id.* at paras. 43-54.

[230] *See infra* at Sections III.B.2.d (electronic billing) and III.B.2.f (line splitting).

Carrier Guidelines, and KMPG found that Verizon satisfied all 164 test points.[231] Furthermore, we do not find significant those criticisms that Verizon received a perfect score on KPMG's OSS testing, yet in certain instances it later discovered limited misreported or miscalculated data.[232] The failure to detect an improper calculation of performance results for an isolated number of metrics is not enough to disqualify an otherwise comprehensive review by an experienced and qualified auditor.[233] In addition, we reject AT&T's suggestion that we discredit the comprehensiveness and probative value of KPMG's test because it did not evaluate whether Verizon used the appropriate retail analogue for competitors' wholesale activities.[234] Identification of analogous functions is essential for measuring parity, and KPMG did test whether Verizon selected a retail analogue consistent with the New Jersey Board's Carrier-to-Carrier guidelines.[235]

b. Data Sufficiency, Accuracy and Reliability

88. Although some commenters challenge the small number of residential UNE-platform customers in New Jersey as being insufficient to assess the operational readiness of the OSS,[236] the Commission has never required an applicant to achieve a specific market share in any

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[231] KPMG Final Report at 23, 353-405; *see also* Verizon NJ I Application App. A, Vol. 3, Declaration of Elaine M. Guerard, Julie A. Canny, and Marilyn C. DeVito at para. 134 (Verizon NJ I Guerard/Canny/DeVito Decl.).

[232] NJDRA Comments at 22; AT&T NJ I Bloss/Nurse Decl. at para. 40; *see also* AT&T NJ I Bloss/Nurse Decl. at para. 30 and Attach. 3 (detailing Verizon's exclusion of five of six New Jersey area codes in the calculation of its installation trouble report rates for certain digital services under PR-6-01 an PR-6-03).

[233] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17439, para. 34 (finding that "the recurrence of some errors does not diminish the value of the KPMG study" and that "remaining errors as of the date of filing were at *de minimis* levels").

[234] AT&T NJ I Bloss/Nurse Decl. at para. 39 & n.31 (citing KPMG witness' concession that "it was not a structured element of their test to look at the retail analog that was chosen and compare it to the wholesale standard or metric").

[235] KPMG testified "if a retail analog was defined in the carrier to carrier guidelines as being the one that should be used, our test did determine . . . that . . . the correct data . . . was used in the calculation of the retail analog." *November 16, 2001 Transcript*, App. B, Tab 9. We also find unpersuasive AT&T's objections to KPMG's test of the paper billing, such as AT&T's criticism of KPMG's testing of "scrubbed" new accounts that did not have actual account history. *See* AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 51. The use of dummy accounts rather than actual customers is a necessary aspect of testing, and as we indicate above, we find KPMG's pseudo-CLEC activities to be sufficient for our reliance on its test of Verizon's OSS.

[236] *E.g.*, AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 61 (citing Verizon's admission that only 800 residential lines serve New Jersey through the UNE-platform (Verizon Application at 79)). Several commenters attack Verizon's application as being premature, criticizing the amount of actual commercial usage as being insufficient. *E.g.*, AT&T NJ I Comments at 17; AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 16; NJDRA NJ I Comments at 21. In particular, some parties argue that the lack of TELRIC rates for UNEs has precluded the development of meaningful UNE commercial usage data and experience. *E.g.*, AT&T NJ I Comments at 17; WorldCom NJ I Comments at ii ("Because we are unable to enter the market [due to excessive UNE rates] we do not have the commercial experience to be able to discuss the adequacy of the New Jersey [OSS] as a practical matter."). Although the New Jersey Board described the competitive LEC order volumes as "relatively modest to date," it (continued….)

specific sub-market, or even to demonstrate the processing and provisioning of a substantial commercial volume of orders, as a prerequisite to checklist compliance.[237] In evaluating this application, we note that with approximately 613,000 total lines deployed,[238] competitive LECs reach 10 percent of all lines in Verizon's service area through all modes of entry.[239] While the most prevalent form of competition in New Jersey has been resale, as of January 2002, competing carriers in New Jersey served approximately 39,000 lines over UNE-platform .[240] Therefore, although the number of UNE-platform customers may be proportionally low, the total number is sufficient to allow us to rely on the performance data generated by commercial usage.

89. In making this determination, we rely in part on the Department of Justice's evaluation, which found that the relatively low levels of commercial usage warranted extra attention to wholesale billing, but did not otherwise find the degree or distribution of commercial activity to be insufficient.[241] As described below, we have devoted the extra attention suggested by the Department of Justice to those issues in controversy. And while we are satisfied that we have enough data to examine how Verizon's OSS functions with respect to UNE orders, we find, as did the New Jersey Board, that we can also rely on the KPMG test results as additional significant evidence that Verizon provides nondiscriminatory access to its OSS.[242] Our reliance on the KPMG test results is warranted because of the thoroughness and rigorousness with which KMPG conducted its military-style test, which covered 536 transactions and included volume testing. Thus, we see no need to question the reliability of the data Verizon submitted in its application and, in fact, we are encouraged by Verizon's efforts in coordination with the New Jersey Board, to ensure that its data are accurate, reliable, and widely disclosed.

90. We reject the arguments made by AT&T and other parties that challenge the reliability of Verizon's data on the basis of the sheer volume of the changes and corrections that Verizon made to its processes for including the relevant data.[243] Unlike the other states where

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found no need for additional commercial experience to confirm the adequacy of the OSS. New Jersey Board NJ I Comments at 30.

[237] Appendix C at para. 11 and n.27.

[238] Verizon NJ II Torre Decl. Attach. 1 at para. 2.

[239] Verizon NJ II April 26 *Ex Parte* Letter (reporting a retail line count of 6,602,027).

[240] Verizon NJ II Torre Decl. Attach. 1 at para. 2 and 2 tbl.1.

[241] Department of Justice NJ I Evaluation at 5-6 & n.21. *See infra* at Section VI (noting that Congress declined to impose a market share test for BOC long distance entry).

[242] New Jersey Board NJ I Comments at 30.

[243] AT&T argues that, pursuant to the change control process, the sheer number of metrics change control notices that Verizon has issued demonstrates that Verizon's performance data are inherently unreliable. AT&T NJ I Bloss/Nurse Decl. at para. 24; AT&T NJ II Comments at 23-24. AT&T points to Verizon's submissions of revisions of past New Jersey Board Carrier-to-Carrier reports to correct errors, as well as Verizon's identification of changes to a variety of metrics and submetrics every month since June of 2000. AT&T NJ I Bloss/Nurse Decl. at paras. 27-31; AT&T NJ II Comments at 23-26. AT&T also criticizes Verizon for failing to recalculate past performance (continued....)

Verizon has previously obtained section 271 authority, Verizon is required by the New Jersey Board to submit a monthly notice of its metric change controls to the New Jersey Board and to the competitive LECs when it implements changes to the methods and procedures it uses to calculate its performance metrics.[244] Specifically, Verizon must track all changes to wholesale performance measurements, namely, metric change control requests; data calculation clarifications; and data calculation corrections.[245] Verizon then must send out e-mail notifications to the New Jersey Board and to competitive LECs within one business day after a metrics change control request or data calculation clarification has been assigned a scheduled filing date.[246]

91. We do not accept AT&T's argument that Verizon's use of the change control process demonstrates that Verizon's performance data are so unreliable as to be of little evidentiary value that would warrant a finding that Verizon's OSS does not comply with the checklist. Rather, we believe that the metrics change control process, and Verizon's compliance with that process, provides improved transparency and openness into a data collection effort that is inherently complex and iterative. Although the improved transparency of this process has identified certain miscalculations,[247] as the Commission has previously held, regular corrective

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reports, with limited exceptions. AT&T NJ I Bloss/Nurse Decl. at paras. 31-34. MetTel attaches copies of 37 metric change control notices for March 17 through March 28, 2002. MetTel NJ II June 13 *Ex Parte* Letter at 4 & Attach.

[244] Verizon NJ I Guerard/Canny/DeVito Decl. at paras. 140-46; *see also* Wholesale Performance Metrics: Change Control Notification Process, July 2001, Appendix J, Tab 13 (Wholesale Performance Metrics July 2001). Building upon the metrics change control process that it uses throughout the former Bell Atlantic region, Verizon began in July 2001 to provide to the BPU and competitive LECs far more information about changes implemented to the performance measurements calculations than it did in New York, Massachusetts, or Connecticut.

[245] Verizon NJ I Guerard/Canny/DeVito Decl. at para. 142; Wholesale Performance Metrics July 2001 at 4. A metric change control request relates to five types of changes: regulatory orders, including a new metric; process improvement changes; new products and services; administrative changes; and template changes. Data calculation clarifications identify a definition or methodology for calculating a performance measurement, and data calculation corrections fix the deficiencies that Verizon discovers in the calculation or completeness of a performance measurement.

[246] Verizon NJ I Guerard/Canny/DeVito Decl. at para. 143. By notifying the competitive LECs of the planned date to file data with the New Jersey Board consistent with the metrics change control request or data calculation clarification, Verizon permits the competitive LECs to track these changes. Wholesale Performance Metrics July 2001 at 1, 5.

[247] AT&T seizes on a handful of correction notices to show the untrustworthiness of Verizon's reporting process, AT&T NJ I Bloss/Nurse Decl. at paras. 28-32, but none of these are emblematic of OSS dysfunction. For instance, AT&T points to a metrics change control notice of September 20, 2001, where Verizon recognized that the sampling error and Z-score results for certain UNE special provisioning measures have been incorrect since June 2000. AT&T NJ I Bloss/Nurse Decl. at para. at para. 28. However, as Verizon notes, this issue was actually corrected in April 2001, and in only one month were the volumes sufficient under the Carrier-to-Carrier guidelines to warrant the calculation of a Z-score, and Verizon provided superior service to competitors in that case. *See* Verizon NJ I Guerard/Canny/DeVito Reply Decl. at para. 21. We also do not find Verizon's data reporting credibility to be undermined by Verizon's revelation that, from June 2000 to October 2001, it excluded data from five of six area
(continued....)

activity does not demonstrate systemic infirmities as an end in itself.[248] In fact, the New Jersey Board found that the number of change control notifications issued by Verizon "indicate [Verizon's] necessary commitment to improvement where areas of concern arise."[249] We also note that KPMG tested and approved the metric change control methodology, and we place substantial reliance on its examination.[250]

92. Furthermore, the Commission's procedural rules requiring that parties submit accurate, reliable and truthful information provide significant further assurances of the integrity of the data presented here.[251] Finally, the iterative nature of tracking system performance and recording the resulting data creates a moving target for which precise recomputation during the 90-day section 271 application process is not always realistic.[252] Unless the change in the data collection and computation process results in material differences in the performance calculations, we do not believe that recomputation and resubmission of the results is required simply as a matter of course during the pendency of a section 271 application with the Commission.[253]

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codes when calculating its installation trouble report rates for certain digital services under PR-6-01 (percent installation troubles within 30 days) and PR-6-03 (percent installation troubles reported within 30 days). AT&T NJ I Bloss/Nurse Decl. at para. 30. This exclusion affected only one of eleven wholesale products reported under these measurements (resale 2 wire services), and the uncorrected retail data actually overstate Verizon's own retail performance, so that the misses reported for July and August 2001 for PR-6-01 were subsequently revised to be hits. *See* Verizon NJ I Guerard/Canny/DeVito Reply Decl. at para. 23 and Attachment 6 (Letter from Bruce Cohen, Verizon, to Henry Ogden, Acting Secretary, New Jersey Board of Public Utilities (January 8, 2002))

[248] *E.g.*, *Verizon Pennsylvania Order*, 16 FCC Rcd at 17439 n.123, para. 33 n.123 ("Contrary to AT&T's assertion, moreover, the repeated need for Verizon to correct its billing system during KPMG's testing does not diminish Verizon's credibility, but rather helps demonstrate Verizon's commitment to correcting systemic problems in its billing system."). In the *SBC Arkansas/Missouri Order*, AT&T contended that SWBT's performance data as a whole was suspect due to a third-party tester's failure to uncover performance data anomalies arising from two performance data-related problems. We found nothing sufficient to place in doubt the correctness of SWBT's data collection methodologies. *SBC Arkansas/Missouri Order*, 16 FCC Rcd at 20726-27, para. 17. In addition, we recently rejected assertions that a pattern of data restatements by BellSouth and its recognition of problems with certain metrics indicated that the data was too unstable to be relied on. *BellSouth Georgia/Louisiana Order*, at para. 17.

[249] New Jersey Board Comments at 80.

[250] KPMG Report at 408-09; *see supra* Section III.B.2.a.

[251] *See* 47 C.F.R. § 1.65.

[252] Verizon NJ I Guerard/Canny/DeVito Reply Decl. at para. 19 ("The processes required to convert Verizon's retail and wholesale data into performance results are tremendously complex and implementation of performance measurements is an iterative process that will never be 'final.'").

[253] The NJ Incentive Plan attempts to resolve this issue going forward, as Verizon must revise and re-file in a timely fashion any performance report that it subsequently determines to have been incomplete or inaccurate. NJ Incentive Plan at 8; Verizon NJ I Guerard/Canny/DeVito Reply Decl. at para. 27. A more detailed discussion of the Incentive Plan is contained in Section VI, below.

c. Order Processing Notifiers

93. An important aspect of a competing carrier's ability to serve its customers at the same level of quality as a BOC is the timely receipt of order processing notifiers, which inform competitors of activities that an incumbent has initiated or completed at the request of the competing carrier. In processing an order, Verizon's systems progressively generate four principal sets of notifiers that track the status of the order: (1) an acknowledgement that the order has been received (ACK) or negative acknowledgement (NACK), which indicates flawed transmission of the order and inability to process it; (2) an LSRC or order rejection notice; (3) a provisioning completion notice (PCN), which informs a carrier of the completion of the work associated with an order,[254] or a "jeopardy" notice that a service installation due date will be missed;[255] and (4) a billing completion notice (BCN), which informs competitors that all provisioning and billing activities necessary to migrate an end user from one carrier to another are complete and thus the competitor can begin to bill the customer for service.[256] When a competitive LEC has not received a notifier when it expects to, it can open a trouble ticket with the BOC to determine the status of the missing notifier.

94. Competitors in New Jersey raise several issues regarding notifier timeliness and accuracy,[257] and the Department of Justice comments that the Commission should satisfy itself that Verizon returns BCNs on an accurate and timely basis.[258] For example, as described in more detail below, MetTel raises a threshold accusation that Verizon issues "false" order completion notifiers.[259] In contrast to more anecdotal-based challenges made by competitors in previous section 271 proceedings,[260] MetTel has extensively documented and inventoried its submissions of orders and receipt of notifiers. We commend MetTel on its efforts to compile and submit independent evidence and construct an affirmative case for its position.

95. Nevertheless, for the same reasons outlined below in Part III.B.2.a, and because the New Jersey Board relied explicitly on KPMG's replication and validation of Verizon's completion notifier data, we continue to place primary reliance on the notifier data that Verizon

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254 *Bell Atlantic New York Order*, 15 FCC Rcd at 4053, para. 188.

255 *SWBT Texas Order*, 15 FCC Rcd at18447, para. 184.

256 *Verizon Pennsylvania Order*, 17 FCC Rcd at 17446, para. 43.

257 MetTel NJ II Comments at 5-6; AT&T NJ I Comments at 22.

258 Department of Justice NJ II Evaluation at 9.

259 MetTel NJ II Comments at 5-6 ("Verizon either intentionally or mistakenly reports transactions as completed when in fact they are not completed"); MetTel NJ II Reply at 6-14 (challenging the veracity of the completion notifiers transmitted by Verizon).

260 "When considering commenters' filings in opposition to the BOC's application, we look for evidence that the BOC's policies, procedures, or capabilities preclude it from satisfying the requirements of the checklist item. Mere unsupported evidence in opposition will not suffice." *SBC Texas Order*, 15 FCC Rcd at 18375, para. 50.

has submitted with its application.[261] At the same time, we recognize that, although the issues raised by MetTel do not generally demonstrate checklist noncompliance, Verizon has an affirmative obligation to continue to engage MetTel and attempt to reconcile its disagreements with MetTel through a carrier-to-carrier dispute resolution process. In this regard, we note that Verizon has begun a data reconciliation process with MetTel during the course of this proceeding that, although incomplete, has focused the number of issues in dispute and led to a more precise identification of the underlying data in dispute.[262] As a result, it appears that much of the remaining gap between the performance results reported by Verizon and the performance results generated by MetTel arise from an apparent disagreement over the application of various aspects of the Carrier-to-Carrier Guidelines. Although the record reveals that this reconciliation process has been contentious and adversarial, at this time we do not believe that Verizon is not engaged in a good-faith effort to resolve these issues. We fully expect Verizon to continue these efforts at reconciliation as part of its nondiscrimination obligations and to continue to make efforts to improve its OSS performance. We also expect the New Jersey Board will make every effort to facilitate this reconciliation effort either formally through its dispute resolution process or through other administrative measures.

96. For purposes of checklist compliance, we are convinced by the thoroughness and rigorousness of KPMG's independent audit that Verizon's performance data, including its data related to notifiers specifically, is sufficiently accurate. The fact that no other company questions whether Verizon's performance data related to the timeliness and accuracy of Verizon's notifier data gives us additional assurance that such data are reliable. Further, MetTel's attempts to introduce certain usage proxies as indicators of system events and reliance on measures not adopted by the New Jersey Board do not persuade us to abandon the more objective and industry standard performance measures approved by the Board.

97. We conclude that Verizon has demonstrated that it provides notifiers in a nondiscriminatory manner that allows efficient competitors a meaningful opportunity to compete. In reaching this determination, we recognize that the processes for notifying competitors of the status of their orders, the set of metrics to measure notification, and the corresponding process to record notifier performance, are all evolving and will continue to do so. Accordingly, we expect Verizon to continue to work with MetTel and other competitors in enabling them to understand the business rules and address carrier-specific problems.[263]

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[261] New Jersey Board NJ I Comments at 34.

[262] *See, e.g.*, Verizon NJ II May17 *Ex Parte* Letter at 1 (noting that the MetTel's and Verizon's "discussions, and the review and reconciliation of data in conjunction with them, have already borne fruit and resulted in increased understanding").

[263] Just as the Commission's approval of change management depends upon the adequacy of a process for the communication and management of changes to electronic interfaces and other applications, *BellSouth Georgia/Louisiana Order* at para. 179, our finding of checklist compliance for OSS is based in part upon Verizon's procedures for working with competitors to address notifier and other OSS issues.

(i) Timeliness of Confirmation and Reject Notices

98. We find that Verizon's provisioning of LSRCs and reject notices to competing carriers meets the requirements of checklist item two in this case. The Commission, in prior section 271 orders, has held that the functionality encompassed by order confirmation notices is an important element of the ordering process, and that data demonstrating that such notices are provided in a timely manner is a key consideration for assessing whether competitors are allowed a meaningful opportunity to compete.[264] Among other things, competing carriers rely on LSRC notices to make commitments to their customers regarding the date for the commencement of service.[265] Moreover, the Commission has noted that the "[t]imely delivery of order rejection notices has a direct impact on a new entrant's ability to service its customers, because new entrants cannot correct errors and resubmit orders until they are notified of their rejection. . . ."[266] Under the New Jersey Carrier-to-Carrier guidelines, and depending on the classification of the service ordered, Verizon must return an order confirmation or reject within 2 hours, 24 hours, 48 hours, or 72 hours for 95 percent of the orders within each category in order to meet the relevant benchmarks.[267]

99. MetTel challenges the timeliness of Verizon's provision of LSRCs and rejects in New Jersey. Based on its analysis of Verizon's performance for November and December 2001, MetTel asserts that Verizon has overstated its positive performance in providing LSRCs and reject notifiers.[268] According to MetTel, at least part of Verizon's inaccuracy stems from the

[264] *E.g., Bell Atlantic New York Order*, 15 FCC Rcd at 4035-37, paras. 163-64.

[265] *See Application of BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, CC Docket No. 97-208, Memorandum Opinion and Order, 13 FCC Rcd 539, 603, para 115 (1997) (*BellSouth South Carolina Order*). The Commission noted that "[d]elays in the return of the FOC [LSRC] notice therefore delay a new entrant's ability to inform its customers when service will begin." *Id.* at 606, para. 122.

[266] *BellSouth South Carolina Order*, 13 FCC Rcd at 604, para. 117.

[267] *See* OR-1-02 (% On Time LSRC – Flow-Through) (2 hours), OR-1-04 (% On Time LSRC < 6 lines – Electronic – No Flow-Through) (24 hours), OR-1-06 (% On Time LSRC ≥ 6 lines – Electronic – No Flow-Through) (72 hours), OR-1-08 (% On Time LSRC < 6 lines - Fax) (48 hours), OR-2-02 (% On Time Reject - Flow-Through), OR-2-04 (% On Time LSR Reject < 6 lines -Electronic - No Flow-Through), and OR-2-06 ((% On Time LSR Reject ≥ 6 lines – Electronic – No Flow-Through), OR-2-08 (% On Time LSRC < 6 lines – Fax) (48 hours). These metrics allow longer time interval standards for more complex products that are likely to require longer processing periods.

[268] MetTel NJ II Comments, Declaration of Elliott Goldberg at para. 6 (MetTel NJ II Goldberg Decl.) MetTel maintains its own measurement data, based on the interval between when it sends in an order the date/time stamp encrypted in the header of the confirmation and reject notices that it receives. *Id.* Verizon agrees that the use of the encryption date/time stamp is a reasonable measurement point. Verizon NJ II April 15 *Ex Parte* Letter at 2-3; Verizon NJ II Reply App. A, Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster, at para. 15 (Verizon NJ II McLean/Wierzbicki/Webster Reply Decl.). According to MetTel's analysis of the data that it collects, Verizon's actual reject and confirmation measures for MetTel range from 78 to 90%, well below the 98% and 99% scores that Verizon reported. MetTel NJ II Goldberg Decl. at para. 6.

exclusion of 520 purchase order numbers (PONs), or 16 percent of the New Jersey PONs.[269] In addition, contrary to Verizon's reported results, MetTel asserts that less than 75 percent of these notifiers were issued on time.[270]

100. Consistent with Commission precedent in evaluating section 271 applications, we rely on the performance measurements adopted by the New Jersey Board through an industry-wide collaborative effort, and the results reported by Verizon using those measurements. The Commission has previously expressed support for the efforts of state commission to build and oversee a process that ensures the development of local competition, and that allows the technical details of metric definitions to be worked out with the participation of all concerned parties.[271] Under the New Jersey business rules, Verizon has consistently returned confirmation and reject notices for resale and UNE-platform orders well beyond the 95 percent performance metric threshold for November 2001 through February 2002 for all competitive LECs in the aggregate,[272] and for MetTel specifically.[273]

101. We place little weight on MetTel's data analysis for November and December 2001, as Verizon has shown that MetTel appears to have included data in its analysis that normally would be excluded under the Carrier-to-Carrier Guidelines.[274] Verizon argues that MetTel's calculation of response times based on a "run clock" basis fails to take into account certain weekend and other scheduled hour exclusions recognized by the Carrier-to-Carrier Guidelines where the service order processor is off-line. In addition, Verizon explains that 91 percent of the PONs that it supposedly failed to include in its performance data were appropriately excluded as "front-end" rejects that are not counted in performance in the Carrier-to-Carrier guidelines, and that the remainder were actually from other states; either confirmed or rejected in a different month; or were submitted twice.[275] We also note that MetTel raises

[269] MetTel NJ II Goldberg Decl. at para. 6; MetTel NJ II April 15 *Ex Parte* Letter.

[270] MetTel NJ II Goldberg Decl. at para. 6 (excepting the data for September). MetTel submits these results for the June-December 2001, which it explains was the most recent data available. *Id.* at paras. 6-7.

[271] *SWBT Texas Order*, 15 FCC Rcd at 18376-77, para. 54.

[272] *See* OR-1-02-2320; OR-1-04-2320; OR-1-06-2320; OR-1-02-3140; OR-1-04-3140; OR-1-06-3140; OR-2-02-2320; OR-2-04-2320; OR-2-06-2320; OR-2-02-3140; OR-2-04-3140; OR-2-06-3140.

[273] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 13.

[274] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at paras. 15-17; Verizon NJ II April 15 *Ex Parte* Letter at 2-3. We do not undertake a PON-by-PON review in this expedited proceeding.

[275] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 14. (citing Verizon Application I Appendix J, Tab 17 at 21, 30) As a general matter, Verizon notes that that front-end rejects are usually returned quickly, and their inclusion would likely improve the performance data. Verizon also identifies other examples of how MetTel's calculations are inconsistent on their face, such as MetTel's explanation that it excludes Web GUI data, which the Carrier-to-Carrier Guidelines clearly include. Verizon NJ II May 17 *Ex Parte* Letter at 4 (citing October 2001 Guidelines at 21, 30); *but see* MetTel NJ II June 13 *Ex Parte* Letter at 5-6 (explaining that MetTel simply classified all Web GUI PONs as having passed the metric in the interest of expediency, thereby granting Verizon possible (continued....)

concerns about its ability to analyze LSRCs and rejects due to difficulties in obtaining the "flat files," which are records that Verizon uses to calculate performance measurements down to the PON level of detail.[276] However, Verizon is committed to producing and providing the flat files for the most recent month to all requesting competitors on a going-forward basis.[277] To the extent that MetTel continues to disagree with Verizon regarding the calculation of performance measures under the business rules,[278] we expect that the New Jersey Board will engage and resolve these issues through its dispute resolution process or other administrative mechanisms.[279]

(ii) Order Completion Notifiers

102. Until a competing carrier receives an order completion notice, the carrier does not know that the customer is in service, and cannot begin billing the customer for services or addressing any maintenance problems experienced by the customer.[280] Premature, delayed or missing BCNs can cause competitors to double-bill, fail to bill, or lose their customers.[281] To assess the sufficiency of Verizon's order completion notification, the Commission looks to both the provisioning of PCNs, or "work completion" notices, as well as BCNs.[282] More recently, we

(Continued from previous page)
grace items). MetTel raises other challenges to Verizon's notifier calculations, asserting that (1) Verizon issued multiple copies of notifiers and counted the latest one; (2) Verizon issued both an LSRC and reject on a single order and counted the LSRC; and (3) Verizon counted a different notifier in lieu of a notifier that was never sent. MetTel NJ II May 14 *Ex Parte* Letter at 2. In a section 271 proceeding we do not undertake interpretations of business rules as a matter of first impression.

[276] In the absence of flat files in its possession earlier in the proceeding, MetTel submitted that a weighted average of Verizon's response rates for LSR confirmations and rejections in New Jersey is almost three times longer than in Pennsylvania and almost four times longer than in New York. MetTel NJ I Feb. 7 *Ex Parte* Letter at 4. Although Verizon's production of the flat files obviates the need to address this claim dispositively, we note that such a weighted average is not a performance measure approved by the New Jersey Board, and that the disparity between states appears to result from MetTel's averaging different intervals of timeliness without controlling for the percentage of orders that fall into the 2-hour, 24-hour, 48-hour, or 72-hour intervals. Verizon Feb. 25 *Ex Parte* Letter (MetTel Issues) at I.A.3.

[277] Verizon NJ II April 15 *Ex Parte* Letter at 4 (explaining that retrieving and processing past reports is burdensome).

[278] The latest submissions filed in this proceeding indicates that the flat file dispute is, at bottom, a business rule controversy. *See* MetTel NJ II June 13 *Ex Parte* Letter at 4-6.

[279] *See Investigation Regarding Local Exchange Competition for Telecommunications Services*, Docket No. TX95120631, Order on Reconsideration (rel. June 19, 1998).

[280] *Bell Atlantic New York Order*, 15 FCC Rcd at 4052-53, para. 187.

[281] *Verizon Pennsylvania Order*, 17 FCC Rcd at 17446, para. 43; *Bell Atlantic New York Order*, 15 FCC Rcd at 4052-53, para. 187; MetTel NJ II Comments at 7. Among other problems, MetTel points to the significant costs that a competitive LEC incurs in time and money to identify and remediate "false" notifiers, as well as the appearance to the end user that the competitive LEC is a low quality provider. MetTel NJ I Feb. 1 *Ex Parte* Letter, at Slide 11.

[282] *Bell Atlantic New York Order*, 15 FCC Rcd at 4053-54, para. 188.

have recognized that BCNs inform competitors of the completion of both provisioning and billing.[283] As described below, we find that Verizon issues order completion notifiers in compliance with checklist item two.

(a) Accuracy of Order Completion Notifiers

103. Based on Verizon's performance data and KPMG's evaluation, we find that Verizon provides accurate order completion notifiers. MetTel challenges the validity and accuracy of certain data that Verizon submitted in this proceeding regarding the accuracy of Verizon's order completion notifiers. Relying on data generated by its own databases, MetTel represents that it has analyzed the PCNs and BCNs generated and transmitted by the Verizon systems, and claims the analysis has shown that customer usage data does not conform to the information supposedly relayed by the notifiers.[284] More specifically, MetTel argues that a significant number of Verizon's completion notifiers falsely indicate that the order has been completed because MetTel's own data have shown (1) an absence of usage three or more days after an account has purportedly been migrated to MetTel; (2) the existence of usage by a customer after suspension of service but before a restoral or disconnection; and (3) the misdirection of long distance calls to a carrier other than the presubscribed carrier.[285] MetTel claims that during the section 271 hearing before the New Jersey Board, Verizon failed to explain specifically its response to MetTel's problem of delayed and missing usage,[286] and that the Board's decision was based on "incomplete information."[287]

104. We are unpersuaded by MetTel's own data and find that Verizon's PCNs and BCNs are sufficiently accurate to allow an efficient competitor a meaningful opportunity to compete. As an initial matter, we note that KPMG tested the accuracy of Verizon's completion notifiers and found them to be accurate.[288] Furthermore, we find it significant that no other party has raised such a threshold allegation in this proceeding. If Verizon were systematically generating inaccurate completion notifiers, we would expect other carriers to experience similar problems. Although MetTel identified this issue during the state proceeding, as well as during the pendency of NJ I, no other party has raised this issue or reported similar problems.

105. In addition, contrary to MetTel's criticism of the sufficiency of the state section 271 hearing, the state's administrative record on the issue of data accuracy appears to be detailed and extensive, and we accord substantial weight to the New Jersey Board's factual findings on

283 *Verizon Pennsylvania Order*, 16 FCC Rcd 17446, para. 43.

284 MetTel NJ I Comments at 8-9; MetTel NJ II Comments at 6-14.

285 MetTel NJ II Comments at 7-8.

286 MetTel NJ I Comments at 10-11.

287 MetTel NJ I Feb. 1 *Ex Parte* Letter at 22.

288 KPMG Final Report, at 111 (Test TVV1-3-8, TVV1-3-9).

this issue.[289] Verizon conducted a review of sample MetTel data as well as its own data, and identified four scenarios in which MetTel's allegations that misdirected or late usage could have occurred were, for the most part, mistaken.[290] Verizon asserted that the facts behind these scenarios provide empirical refutation of MetTel's analysis.[291] The Board heard live testimony specifically on this issue,[292] and both MetTel and Verizon filed post-hearing briefs that addressed these issues.[293] Therefore, the Board had a sufficient record, and there is nothing to show that the Board acted unreasonably in agreeing with Verizon and finding that Verizon is performing its completion notifier obligations satisfactorily.[294]

106. Moreover, while our 90-day review does not permit us to act as the exclusive fact-finder here, especially when such an inquiry would require us to undertake a PON-by-PON analysis, MetTel's summarized data submissions do not persuade us that Verizon's completion notifiers are inaccurate. First, according to MetTel, usage based on the Daily Usage File

[289] *See* Appendix C at para. 2 (stating that the Commission has discretion in each section 271 proceeding to determine the amount of weight to give the state commission's verification). Verizon filed a reply declaration in the state proceeding specifically to address MetTel's concerns. Letter from Clint Odom, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 01-347 (filed February 22, 2002), Document Appendix, Tab 6, Verizon Reply Declaration in Response to Metropolitan Telecommunications, Docket No. TO01090541 (filed with New Jersey Board Nov. 19, 2001) (Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6).

[290] Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6 at paras. 18-21. First, and predominantly, according to Verizon, MetTel continues to migrate end-users to platform service without changing the long distance or local PIC to MetTel at the time of the initial migration. *See also* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 38 (stating that Verizon's review of October PONs revealed that less than half requested that the PIC be changed to MetTel). Second, Verizon may have won back the customer shortly after the initial migration. *See id.* (finding that over 15% of the PONs listed by MetTel for October had either been won back to Verizon or had migrated to another competitive LEC). Third, for a very small group of PONs where MetTel was migrating an existing competitive LEC UNE loop end user to MetTel UNE-platform service, Verizon concedes that there were a few examples in MetTel's data where this migration was not handled smoothly by Verizon, and could have resulted in delayed usage to MetTel. Fourth, Verizon recognized that there were some PONs where a Verizon error resulted in end users being PIC'd incorrectly to MetTel, although the trouble ticket process can address these errors, and their incidence is low. *See* PR-6-02-3140 (% Installation Troubles Reported Within 7 Days - Platform) (ranging from 0.14% to a high of .0.50% from April through November 2001, and always less than retail).

[291] Verizon NJ I Feb. 22 *Ex Parte* Letter, Tab 6, at para. 21.

[292] Verizon NJ I Application, App. B, Vol. 7a-b, Tab 11.

[293] *See* Verizon NJ I Feb. 22 *Ex Parte* Letter at 2; Verizon NJ I Feb. 25 *Ex Parte* Letter, Document Appendix, Tabs 10, 12; Verizon NJ I Application, App. B, Vol. 8, Tabs 13 and 14.

[294] New Jersey Board NJ I Comments at 34. MetTel implies that the New Jersey Board improperly viewed the usage issue as a billing issue by discussing it in the Billing section of its Consultative Report, MetTel Feb. 1 *Ex Parte* Letter at 24, but no such organizational criticism undermines the merits of the Board's findings. We are also encouraged by Verizon's commitment to meet with MetTel to review the trouble tickets submitted by MetTel for New York, Pennsylvania, and New Jersey that claim no usage. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 39.

(DUF)[295] for a significant percentage of customers starts significantly later than usage as indicated by the notifiers, and sometimes not at all.[296] Specifically, MetTel asserts that where there is no indication of usage in the DUF within three days of the issuance of a BCN, the notifier is "false" and unreliable.[297] Using this assumption, MetTel has found that 39 percent of end user migrations to MetTel in November and December 2001 were not completed as per the BCN.[298] We do not accept MetTel's argument that a lack of usage for three days following the issuance of a BCN necessarily proves that the notifier is faulty. Such delayed usage appears to be more the exception than the rule, and moreover, there are several plausible explanations for customer usage to begin several days after migration at the DUF.[299] We are thus not persuaded that such a lack of usage is a reliable proxy for a conclusion that notifiers are inaccurate. Further, Verizon has reviewed records for the nearly 1,000 billing telephone numbers for which MetTel submitted trouble tickets for missing usage in New Jersey.[300] In 75 percent of these cases, Verizon either found usage at some point in time or MetTel agreed that no usage was due. For the remaining 251 cases, Verizon did not find usage and did not detect any problem. We take comfort in the further investigation that Verizon has undertaken for the remaining accounts where missing usage was reported.[301] If this remaining reconciliation effort demonstrates that Verizon's systems are deficient, we will not hesitate to take action pursuant to section 271(d)(6).[302]

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[295] The DUF is the cumulative record of the total customer usage of a competitive LEC. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17426, para. 14.

[296] MetTel NJ I Comments at 9-14. For example, MetTel alleges that Verizon's explanation that a lack of usage in many instances arising from winbacks soon after migration to MetTel is suspect. According to MetTel, even under this "quick winback" operational scenario, at least some usage should take place. MetTel NJ I Comments at 11.

[297] *See* MetTel NJ II April 15 *Ex Parte* at Attachment 1, at 16-17; MetTel NJ II Reply at 7.

[298] MetTel NJ II April 15 *Ex Parte* at Attachment 1, p.18. MetTel also reports that for the January 1 – May 23, 2002 timeframe, over 14% of all orders migrated to MetTel did not register usage in the first three days after the completion date. MetTel NJ II May 14 *Ex Parte* Letter at 3. MetTel also conducted an analysis of the converse scenario – usage after loss of line (LOL) – and reports that it received usage past the effective migration date for over 31% of the lines which MetTel lost to another carrier. MetTel NJ II June 4 *Ex Parte* Letter at 2-3 (covering the January 1- May 27, 2002 period).

[299] *See supra* at n.290.

[300] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 27; Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 32.

[301] Verizon explains that 62% of the payphone accounts where usage was supposedly missing were actually in a seasonal suspend status, and that 4% had been disconnected. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 28. Verizon also investigated the locations of a sample of 41 of the remaining coin account telephone numbers, and found that these locations either had no phone (28 numbers); had phones, but the phone was not working (7 numbers); had phones that were not MetTel's (5 numbers); or was a MetTel phone but had a phone number other than the one submitted (1 phone). Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 28.

[302] 47 U.S.C. § 271(d)(6).

107. Second, MetTel submits data that purport to show that usage has accumulated when it should not. Specifically, MetTel claims that it had received usage on 88 lines after it submitted an order to suspend the line for non-payment (SNP) and received a BCN.[303] However, Verizon's research indicates that for 73 of these lines, MetTel had actually submitted a later order to restore the line, and that first usage came *after* the restoral order was submitted.[304] For the remainder of the lines, Verizon's investigation reveals similar explanations for usage.[305] Based on the record before us, we are satisfied that the results of these inquiries address MetTel's concerns about the accuracy of usage accumulation.

108. Third, MetTel claims that its examination of the DUF indicates errors in provisioning the presubscribed interexchange carrier (PIC) on an end user's account.[306] We are satisfied with Verizon's explanation that these concerns do not reveal systemic OSS failure that would lead us to find checklist non-compliance. Verizon points out several plausible circumstances where the usage records could reflect a different carrier identification other than

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[303] *See* MetTel NJ II Comments, Attachment 7.

[304] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 29.

[305] For example, Verizon won back eleven of the lines, but because a suspended line cannot be migrated, Verizon restored the lines solely in preparation for migration. Such restorals are generally for one day or less prior to the win-back disconnect order for the competitive LEC losing the customer. *Id.* In addition, three of the lines were complex Centrex lines that are not designed for service suspension. *Id.* Although MetTel complains that its inability to block these lines to suspend service indicates that the BCN is "false" and that Verizon's recognition of an "improper" PCN is indicative of the problem, MetTel has been aware of this limitation in New York since 2000, and the limitation on a discrete set of offerings is the same in New Jersey as in New York and other states that the Commission has already approved under section 271. *See* MetTel NJ II May 14 *Ex Parte* Letter at 3; MetTel NJ II June 13 *Ex Parte* Letter at 2. Because the inability to suspend Centrex lines is applicable to both retail and wholesale customers, we do not make a finding of discrimination. *See* Verizon NJ II May 17 *Ex Parte* Letter at 7. Further, although MetTel alleges that Verizon has been restoring accounts an average of two days prior to migration rather than one day, we note that no other party makes such a claim. *See* MetTel NJ II June 13 *Ex Parte* Letter at 2. Moreover, it appears that this issue may again represent primarily a dispute over the application of the relevant business rules.

[306] MetTel NJ II Reply at 11-13. According to MetTel, 9.7% of PIC change transactions indicate usage to a predesignated carrier other than the one indicated on the BCN, and MetTel verifies the PIC change by examining Cat 11 (Carrier Access Usage) records. MetTel NJ I Feb. 1 *Ex Parte* Letter at 12-13. MetTel recently supplemented its analysis of the Cat 11 records for November and December 2001 with an analysis of those records for the January-March 2002 time period. MetTel NJ II May 14 *Ex Parte* Letter at 3. MetTel submits that Verizon's performance has been deteriorating, based upon its review of whether the first call subsequent to the issuance of a BCN reflecting the change to MetTel's Carrier Identification Code (CIC) did in fact go to the proper presubscribed carrier. *See* Verizon NJ II May 17 *Ex Parte* Letter at 6 (noting that MetTel claims that 46 percent of first calls examined were not routed to MetTel's CIC for March 2002). Further supplementing this data, MetTel also reports that over 21 percent of New Jersey lines reflecting calls to a presubscribed carrier were not correctly provisioned during the first quarter of 2002. MetTel NJ II June 10 *Ex Parte* Letter at 3-4. Reiterating this argument, MetTel submits an additional filing on the progress of its reconciliation with Verizon, and reports that it continues to find fault with Verizon's investigation. MetTel NJ II June 18 *Ex Parte* Letter at 5-7.

the predesignated carrier shown on the BCN,[307] and also reports the results of specific investigations that it undertook which contradict MetTel's claims.[308] Despite the presence of other UNE-platform providers in operating New Jersey, the record does not indicate that any of these carriers share MetTel's reported difficulties. We also find it significant that no other commenter complained about the issue. We recognize, however, that the data reconciliation process between MetTel and Verizon is still ongoing and not complete. If at the end of the process the reconciliation indicates that Verizon has violated our rules, we will take appropriate action.

109. Although we recognize that the notifier accuracy issues raised by MetTel appear to be more than just a few isolated incidents, we find it significant that, proportionally, the number of customers impacted has been relatively low, and is thus not competitively significant. As a general matter, such cases are more appropriately handled as a carrier-to-carrier dispute. However, we also view the manner in which Verizon handles these issues with the competing carriers to be a factor in our decision here. Therefore, we emphasize that our approval is based not only on the substantive explanations that Verizon has determined through detailed investigation, but also the thoroughness of the investigative process itself, which demonstrates Verizon's commitment to ensuring nondiscrimination.[309]

[307] *See* Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at II.C; Verizon NJ II McLean/Wierzbicki/Webster/ Canny Decl. at para. 33. These scenarios include calls to a toll-free number; casually dialed numbers (dial-arounds); and terminating usage. In its review of MetTel's January 2002 usage records, Verizon found that 12.4% of MetTel's migration PONs did not request MetTel's usual carrier as the PIC, and that 76.8% of the usage records for the telephone numbers associated with these migration orders appropriately contained carrier IDs other than the PIC ID that MetTel specified (*e.g.*, toll-free calls, casually dialed calls, terminating usage). Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 34.

[308] In another review, Verizon examined trouble tickets submitted between December 1, 2001 and February 28, 2002 for UNE-platform lines that were determined to be switch translation problems. Of the more than 25,000 platform lines provisions, Verizon received only 145 trouble reports that were determined to be switch translation problems, a trouble rate below 1 percent. Of the switch translation trouble reports, the narrative text identified only 7 of them as having PIC problems. Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 35. For March 2002, of the more than 7,000 platform line provisions, Verizon received only 2 PIC-related installation trouble reports, and only 80 trouble reports that were determined to be central office problems. Verizon NJ II May 17 *Ex Parte* Letter at 6.

[309] We are not convinced by MetTel's argument that Verizon improperly excluded certain "project" PONs from its performance measurement calculations, particularly for the time from SOP to BCN. MetTel NJ II Reply at 17-18; MetTel NJ II May 14 *Ex Parte* Letter at 2. Specifically, MetTel objects to Verizon's calculation of OR-4-09 without including 3500 PONs associated with a "project" to migrate coin telephones from another LEC to MetTel. MetTel NJ II Reply at 17-18 (citing Verizon NJ II April 15 *Ex Parte* Letter at 5 n.1). MetTel admits that it signed an agreement to exclude project orders from certain performance measurements, but Verizon and MetTel disagree about the scope of the exclusion. *E.g.*, MetTel NJ II June 13 *Ex Parte* Letter at 6-7. In light of the expedited nature of this proceeding and the apparent lack of an explicit provision in the business rules to cover migration projects, we do not find that MetTel project data must be included in measurement OR-4-09. Our acceptance of Verizon's performance data here is not meant to preclude MetTel or any other carrier from challenging Verizon's calculation of project data, or any other interpretation of the Carrier-to-Carrier Guidelines, before the New Jersey Board, the New York Public Service Commission Carrier-to-Carrier Working Group, or any other forum.

(b) Timeliness of Order Completion Notifiers

110. Although we recognize that Verizon has not consistently met the state-established performance thresholds performance in delivering completion notices in the aggregate, we find that the timeliness concerns raised by MetTel and AT&T do not warrant a finding of checklist non-compliance. In addition to MetTel's disputes regarding the accuracy of Verizon's PCNs and BCNs, MetTel and AT&T raise challenges over the timeliness with which Verizon provisions PCNs and BCNs.[310] Both criticize Verizon's shortcomings in meeting the benchmark for certain performance metrics that measure the interval between the time an order has been recorded at the SOP and the time Verizon generates a notifier at the gateway and sends the order to the competitor's interface.[311] In addition, MetTel has also placed into the record several statistical charts which purport to show deficiencies in BCN timeliness based on MetTel's own data.[312] Nevertheless, we find that Verizon has sufficiently improved its performance and undertaken modifications to improve its systems, and that its overall performance is sufficient to allow an efficient competitor a meaningful opportunity to compete.

111. Our analysis of order completion notices relies heavily on the performance measures that the New Jersey Board developed through a collaborative process with the carriers to determine order processing timeliness, and we place substantially less reliance on alternative statistical measures submitted by either Verizon or MetTel. Verizon's performance for most of the completion notifier metrics from November, 2001 through February, 2002 has been strong,[313] and despite misses for certain BCN metrics, we are not persuaded that they warrant a finding of checklist non-compliance. For the last four months, although Verizon missed the BCN timeliness benchmark for UNEs (97 percent by noon of the next business day) in two of the months, the scores were over 95 percent in both instances,[314] near-misses which we do not find competitively significant in the context of the other performance data. Verizon's improved performance also eliminates the concerns about completion notifiers that AT&T raised in its objections to NJ I and incorporates into this proceeding. AT&T complains that near-misses from July-November 2001 with an aberrantly low score for October indicates inadequate

[310] In Section III.B.2.a, above, we address separately MetTel's related questions concerning the accuracy of Verizon's measurement of the timeliness of its generation of order completion notifiers.

[311] *See* AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 97-98; MetTel NJ II Comments at 5. A gateway connects the BOC's OSS to a competing carrier's own OSS. *See Bell Atlantic New York Order*, 15 FCC Rcd 3953, 3992 at para. 87 n.212.

[312] *See, e.g.*, MetTel NJ I Feb.1 *Ex Parte* Letter ; MetTel NJ II April 15 *Ex Parte* Letter, Attachment at 9-28.

[313] For example, Verizon scored above 99% for both UNE and resale PCN provisioning, OR-4-05 (Work Completion Notice – % On Time) (95% by next business day), and has provisioned resale BCNs above the benchmark of 97% within three business days, OR-4-09-2000 (% SOP to Bill Completion w/in 3 Business Days).

[314] For November, 2001 and January, 2002, Verizon's scores for OR-4-02 (Completion Notice - % on Time) were 95.24 and 96.00, respectively.

performance.[315] In our review of this application, we rely on Verizon's performance for the relevant review period, November 2001 through March 2002 and find this performance to be consistent with its past performance.

112. After reviewing Verizon's aggregate performance data in provisioning timely order completion notifiers to all carriers, we next address MetTel's allegations and examine the timeliness with which Verizon issues these notifiers to MetTel. As explained below, upon review of Verizon's performance specific to MetTel, we conclude that Verizon does not discriminate against MetTel with regard to the timeliness of its order completion notifiers.

113. Despite alternative proposals from both Verizon and MetTel, we nevertheless defer to the performance measurement standards set by the New Jersey Board, including the benchmark of three business days for the SOP-to-Billing Completion in the New Jersey Carrier-to-Carrier Guidelines.[316] Verizon criticizes the three-day interval as being unduly short, because the standard bill cycle in New Jersey is three business days per month, with some four-day cycles.[317] During this cycle, a customer's account is "frozen" and the systems cannot update an account, including migrations to a new service provider and feature changes to an existing customer's service.[318] Verizon states that this cycle is the same in New Jersey as in Pennsylvania, and that because we determined in the *Verizon Pennsylvania Order* that four days was a reasonable benchmark for this metric, it is appropriate to use such a standard here.[319] While we did find that Verizon's reliance on a four-day benchmark was reasonable in that Order, we only accepted Verizon's reliance on that standard in the absence of a metric to track BCNs that was approved by the Pennsylvania Commission.[320] Here, we look to the measurement that the New Jersey Board adopted.

114. In relying on the New Jersey business rules, we also place little weight on MetTel's comparison of the timeliness with which it receives order completion notices in New Jersey against Pennsylvania. In particular, MetTel submits a comparison of systems transactions that shows that it takes an average of one day for its BCNs and PCNs to be received in New

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[315] AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 97-107 (citing a 75.91 score for OR-4-02-3000 for October).

[316] *See* OR-4-09. For an explanation of our preference for the metrics resulting from industry-wide participation, see paragraph 100, above.

[317] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 11.

[318] *See* Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 19. During a migration between competitive LECs, the billing systems are unable to update accounts during any one of three different monthly billing cycles -- the wholesale billing cycle of either competitive carrier, or the billing cycle for the retail end-user. *See* Verizon NJ II April 15 *Ex Parte* Letter at 4-5.

[319] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 19 (citing *Verizon Pennsylvania Order* at para. 44).

[320] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17446-47, para. 44.

Jersey, as opposed to none in Pennsylvania and New York,[321] and claims that its completion notices take twice as long to arrive in New Jersey as in Pennsylvania.[322] However, even if Verizon's timeliness in issuing notifiers varies from state to state, where performance is at or better than benchmark standards in both states, we do not make a finding of discrimination.[323]

115. With regard to Verizon's performance in providing BCNs to MetTel specifically, as we discussed above, we rely on the data that Verizon has submitted in this Application and that it has compiled in response to its obligations under the New Jersey Carrier-to-Carrier Guidelines. Verizon undertook a special study which shows that 95 percent of MetTel's BCNs were generated within five business days for November 2001, and improved to within four for December 2001 and January 2002.[324] Accordingly, we do not accept MetTel's assertion that Verizon takes over 31 days to complete 95 percent of BCNs after the work has been completed.[325]

116. While Verizon does not meet the three-day benchmark for BCNs with regard to MetTel, this is not sufficient to result in a finding of checklist non-compliance. These disparities have improved for December and January to be within one day, and appear to be attributable for the time to clear post-completion discrepancies for certain PONs.[326] Moreover, we find the absolute number of orders affected not to be competitively significant, and that such lesser deficiencies may be appropriately addressed by remedies contained in the Incentive Plan. Our finding that Verizon's systems and processes demonstrate nondiscrimination also rests in part on Verizon's efforts to work closely with MetTel to fix any problems.

117. Finally, we also take comfort in a change that Verizon made to its order processing systems on March 18, 2002, just prior to filing this application. Specifically, Verizon changed the daily sequencing of orders assembled by the SOP so that disconnect orders precede new connect orders. Verizon expects this change in sequencing protocol to reduce the time it takes to generate a BCN for an LSR that involves a migration with these internal service orders.[327] Depending upon the mix of UNE-platform orders submitted each month, Verizon

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[321] MetTel NJ I Feb. 1 *Ex Parte* Letter, OSS Issues Chart 2A: System Transaction Comparison.

[322] MetTel NJ I Feb. 1 *Ex Parte* Letter at 6.

[323] *See* Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at I.A.3 (arguing that so long as the notifications are timely, as they are here, then the comparative timeliness is not relevant).

[324] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 21; Verizon NJ I Feb. 25 *Ex Parte* Letter at I.B.3.

[325] *See* MetTel NJ I Feb.1 *Ex Parte* Letter at 6.

[326] Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 21; Verizon NJ I Feb. 25 *Ex Parte* Letter at I.B.3. More specifically, the one extra day in these two months may be attributed to late notices for eight orders in November and nine orders in December, which are not indicative of a systemic problem. *Id.* In addition, we note that the hold status for bill cycle updates may also be a factor.

[327] Verizon NJ II April 4 *Ex Parte* Letter at 2.

believes that this sequencing change could improve BCN timeliness for those orders affected by up to 24 hours.[328]

(iii) Notifier Trouble Tickets

118. We find that Verizon administers notifier trouble tickets in a manner that provides a competitor with a meaningful opportunity to compete. As a check on missing notifiers, notifier trouble tickets play an important role in tracking and communicating the status of order processing to competing carriers. When a competitive LEC expects to receive a status notifier from Verizon but fails to do so, it may contact Verizon's Wholesale Customer Care Center (WCCC) to open a notifier trouble ticket, and then submit a file containing specified information about the relevant PONs to the WCCC.[329] Using the same trouble ticket (or PON exception) process that has been in place when the Commission granted 271 approval in Massachusetts, Connecticut, and Pennsylvania, Verizon responds to a competitive LEC's submission of a PON exception by providing the status of each PON listed on the trouble ticket.[330] This is the same process for "clearing" delayed or missing notifiers that Verizon began in New York in February 2000, and that the Commission relied on in June 2000 in determining that Verizon had satisfied the performance objective of the March 9, 2000 Consent Decree.[331] If the requested notifier or a later notifier has been generated, Verizon's policy is to resend the notifier within three business days.

328 Verizon expects the change will reduce the time for migration order types involving a "disconnect" order and "new connect" order. Verizon NJ II April 4 *Ex Parte* Letter at 2. At the close of business each business day, Verizon's SOP creates a file with all internal service orders that were work completed that day to be processed during a nightly batch process. Verizon NJ II April 4 *Ex Parte* Letter at 1. A batch process reads and processes a file of input records through programs that process in a defined sequence, beginning with the first record and ending with the last. Verizon NJ II April 4 *Ex Parte* Letter at 2. A single local service request from a competitive LEC may generate multiple internal service orders. *Id.*; Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 31. The internal service orders also update the billing systems, which also use a batch process. Verizon NJ II McLean/Wierzbicki/Webster/Canny Decl. at para. 15; Verizon NJ II April 4 *Ex Parte* Letter at 2. In assembling the service orders for the SOP's batch processing, Verizon's legacy systems used a sort sequencing protocol that would process connect orders ahead of disconnect orders. Verizon NJ II April 4 *Ex Parte* Letter at 2. However, the billing system does not allow a new connect order to be processed before a disconnect order, so the system would process the new connect order, but "re-cycle" the disconnect order, placing it in a sort sequence that allowed it to be processed during the next batch process.

329 Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 158.

330 Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 59; Verizon NJ I Feb. 22 *Ex Parte* Letter (MetTel Issues) at III.A.

331 Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A; *see New York Telephone Company (d/b/a Bell Atlantic-New York)*, Consent Decree, 15 FCC Rcd 5415 (2000) (*New York Consent Decree*). *See* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 60; Verizon Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.; Verizon NJ I Feb. 22 *Ex Parte* Letter, New Jersey Reply Decl., Tab 6 at para. 23. The Consent Decree resulted from an investigation by the Commission that focused on Bell Atlantic's problems associated with lost or mishandled orders. *New York Consent Decree*, 15 FCC Rcd at 5415 para. 1.

119. The New Jersey Board does not require Verizon to track its responses to trouble tickets, and we have noted that the absence of a particular metric is not fatal to the ability of an applicant to demonstrate checklist compliance.[332] Without a Board-approved measurement, MetTel alleges that Verizon does not respond to notifier trouble tickets in a commercially viable timeframe because it does not resolve trouble tickets within three days. Specifically, MetTel alleges that Verizon only resolved 88 percent of MetTel trouble tickets within three days.[333] MetTel argues that the *New York Consent Decree* benchmark of clearing missing notifier trouble tickets within three business days[334] is the only standard in this area, and Verizon "fails miserably" under it.[335]

120. In evaluating Verizon's performance data, we look at the totality of Verizon's responsiveness to trouble tickets, and do not rely specifically on either the definitions or performance standards associated with the trouble ticket clearance measurement that the Commission relied on in finding Verizon to have complied with the 2000 Consent Decree.[336] We

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[332] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17446, para. 43. More recently, we note that effective February 1, 2002, the New York Public Service Commission implemented a performance measurement under which Verizon should resolve 95% of its PON Notifier Exceptions within 3 business days, and 99% within 10 business days. *Order Modifying Existing and Establishing Additional Inter-Carrier Service Quality Guidelines*, Case 97-C-0139 (NYPSC Oct. 29, 2001) at Attachment 1, Section G. Pursuant to that metric, a PON notifier exception is considered "resolved" when Verizon has either sent the requested notifier or subsequent notifier, requested the competitor to resubmit the PON if no notifier has been generated, or taken one of three other steps. *Id.* at Attach. 1, Section G, OR-XX PON Notifier Exception Resolution Timeliness. Specifically, the other three steps for resolution are when Verizon has completed the investigation showing the next action is a competitor's action and that the competitor has been sent or resent the notifier; has completed work that will allow the PON to proceed to the next step in the business process, and sent the appropriate notifier to the competitor; or has notified the competitor that the confirmed due date plus the notifier production interval has not yet passed for requested PON notifier and provided the current work status of the PON. *Id.* This definition is substantially similar to the definition of "resolved" that Verizon has presented in this proceeding. Namely, Verizon deems a trouble ticket to be "resolved" if it takes a corrective action; if it determines that the competitive LEC must take the corrective action and Verizon communicates that finding to the competitive LEC; or if it determines the sought notifier will never exist. Verizon Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.1, III.B; *see also* Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 60.

[333] MetTel NJ II April 15 *Ex Parte* Letter at Attachment, p. 29; MetTel NJ II May 14 *Ex Parte* Letter, Supplemental Decl. of Elliott Goldberg at 1 (correcting information for the period August through December 2001, not including September or October 27-31). Two examples of notifiers that will never come into existence are listed below in footnote 341.

[334] In agreeing to the Consent Decree in New York, Verizon agreed to a metric based upon the percentage of missing notifier trouble ticket PONs cleared within 3 business days. *New York Consent Decree*, Appendix A, 15 FCC Rcd at 5425.

[335] MetTel NJ II April 15 *Ex Parte* Letter at 4. MetTel also questions the timeliness and accuracy of Verizon's responses to trouble tickets, accusing Verizon of improperly creating a dichotomy between "clearing" and "solving" a notifier trouble ticket in order to improve its score on trouble ticket metrics. MetTel Comments at 14-15; MetTel *Ex Parte* at Slides 18-19.

[336] We are aware that MetTel sought the adoption of a three-day standard for notifier trouble ticket resolution in the underlying state proceeding, but the New Jersey Board specifically noted that MetTel failed to demonstrate why it (continued....)

accord substantial weight to the New Jersey Board's factual findings that Verizon does meet its responsibilities in administering trouble tickets,[337] and combined with KPMG's testing of this aspect of OSS and the available performance data, we find that Verizon's OSS systems are in compliance with the checklist.[338] Using data generated through a special study, Verizon reports that it has cleared all PONs submitted in New Jersey within three business days. Specifically, of the approximately 490,000 PONs submitted in New Jersey, competitive LECs submitted exception trouble tickets (for a notifier believed to be delayed or missing) for only 454 PONs. All of these PONs were cleared within three business days,[339] and also were resolved on average in less than four business days.[340] Thus, we are persuaded that MetTel's claims of improper resolution are overstated, and do not warrant a finding that Verizon's OSS systems are not in compliance with the checklist.[341] Further, even MetTel recognizes that Verizon has improved in this area, resolving over 96% of missing trouble ticket notifiers in New Jersey in three business days for March and April 2002.[342] We find that, absent a state-sanctioned performance measurement and standard, combined with the relatively low number of notifier trouble tickets submitted and in upward trend in timely resolution, Verizon's performance in administering trouble tickets is sufficient for the purpose of checklist compliance.

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should conclude that three days is the reasonable commercial standard. New Jersey Board NJ I Comments at 42. Similarly, we do not rely on the current trouble ticket resolution measurement used in New York.

[337] *Id.*

[338] New Jersey Board NJ I Comments at 42; KPMG Final Report at 43-48, 114-16.

[339] Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 63.

[340] Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 34.

[341] Verizon points to two categories of trouble tickets submitted by MetTel and resolved by Verizon where MetTel wrongly believes it is entitled to a notifier that may not exist: (1) requested notifiers for orders that were rejected (negatively acknowledged) by the EDI interface and never submitted into the SOP; (2) requests for notifiers where MetTel had already cancelled the order, but its systems or processes failed to record the cancellation. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 61; Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.A.1. Further, we also disregard MetTel's criticism that "Verizon required 39+ days to resolve 87% of MetTel trouble tickets." MetTel NJ I Feb. 1 *Ex Parte* Letter at 14. Because a trouble ticket may contain hundreds of PONs and is not closed until every PON is resolved, a per-ticket analysis is misleading. Verizon represents that from August to December 2001 it resolved 90% of the PONs on MetTel's trouble tickets within four business days and 100% with 30 business days. Verizon NJ I Feb. 25 *Ex Parte* Letter (MetTel Issues) at III.D.

[342] MetTel NJ II June 7 *Ex Parte* Letter at 1. MetTel compares this high score in New Jersey with an 88% and 74% scores in New York and Pennsylvania, respectively, as evidence that Verizon as evidence of "special handling" that "favored New Jersey items." *Id.* at 1-2; *see also id.* at 2 ("Merely shifting resources temporarily in order to demonstrate 'good numbers' to the Commission is deceptive and counterproductive.) We cannot agree with MetTel that such performance results necessarily demonstrate that Verizon is prioritizing New Jersey trouble tickets ahead of others.

d. Wholesale Billing

121. The Commission has established in past section 271 orders that, as part of its OSS showing, a BOC must demonstrate that competing carriers have nondiscriminatory access to its billing systems.[343] As the Commission has held previously, BOCs must provide two essential billing functions: (1) complete, accurate and timely reports on the service usage of competing carriers' customers, which Verizon records in the DUF; and (2) complete, accurate, and timely wholesale bills.[344] Service usage reports are issued to competitive LECs that purchase unbundled switching and measure the types and amounts of incumbent LEC services that a competitive LEC's end user-customers use, typically measured in minutes of use, for a specific period of time (usually one day).[345] An incumbent LEC issues wholesale bills to competitive LECs to collect compensation for the wholesale inputs, such as UNEs, purchased by competitive LECs from the incumbent LEC, to provide service to their end users. These bills are usually generated on a monthly basis, and allow competitors to monitor the costs of providing service.[346]

122. We find that Verizon complies with its obligation to provide nondiscriminatory access to its billing functions on the basis of its provision of: (1) timely and accurate service usage data to competitive LECs; and (2) wholesale billing in a manner that provides competing carriers with a meaningful opportunity to compete.[347] No party raises any issues with Verizon's provision of service usage data to competitive LECs; and based on the evidence in the record, we find that Verizon's provision of the DUF meets its obligations in this regard. Several parties, however, raise issues with Verizon's provision of wholesale billing, which we discuss below. Specifically, a number of parties dispute the accuracy of the wholesale bill, based on both the BOS BDT format and the retail format.[348] AT&T also asserts that evidence provided by Verizon

[343] Appendix C at para. 39.

[344] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17425, para. 13.

[345] *Id.*

[346] *Id.*

[347] Appendix C at para. 39.

[348] AT&T NJ II Comments at 19, 21-23; Joint Commenters NJ II Comments at 4; Metro Teleconnect NJ II Comments at 3. Verizon operates two systems to generate bills for resale and UNEs. The Customer Record Information System (CRIS) generates bills for UNE-platforms, resale offerings, and some UNEs, such as loops; the Carrier Access Billing System (CABS) generates bills for access services, collocation, and the remaining UNEs, such as switching. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 108; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17428, para. 17. Verizon can then use these systems to provide a competitive LEC with either a "retail-formatted" bill or a "BOS BDT" bill. Although a retail-formatted bill can be transmitted to competitive LECs in a variety of media, Verizon usually prints its retail-formatted wholesale bills on paper. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17428, para. 17. Regardless of the medium, Verizon's retail-formatted bill cannot be easily transferred to a computer spreadsheet or other electronic system that allows for computer auditing. *Id.* at para. 17 n.51. We refer to "paper billing" and "retail-formatted billing" interchangeably. In contrast, a BOS BDT bill appears in the industry-standard Billing Output Specification (BOS) Bill Data Tape (BDT) format that permits a (continued....)

in this application is insufficient to demonstrate the accuracy of the BOS BDT format.[349] In addition, AT&T alleges that Verizon's BOS BDT bill does not conform to industry standards and therefore cannot be considered "readable and auditable."[350] Although we review the timeliness and accuracy of both bill formats, the primary focus of our review is on Verizon's BOS BDT bill format due to its compliance with industry standards and the need for electronic billing once wholesale volumes reach a certain threshold.[351] We note that no party directly challenged the timeliness of Verizon's wholesale bills, and we find that Verizon demonstrates that it is providing both bill formats on a timely basis.[352]

123. Verizon employs the same billing systems in New Jersey as it does in Pennsylvania,[353] where our evidentiary finding that Verizon's wholesale bills were checklist compliant was a "close call,"[354] and many of the issues commenters raise in New Jersey are similar to the issues raised in Pennsylvania. Accordingly, we agree with the Department of Justice that the competitive experience in New Jersey is informed by that of Pennsylvania.[355] We recognize, however, that while the billing *systems* in New Jersey and Pennsylvania are identical, the overall billing *processes* differ. In particular, while the billing software used to store and update the customer service records is the same, account establishment and updates are applied from service orders that are created by different SOPs.[356] We cannot, therefore, merely rely on our previous review of Verizon's billing system in Pennsylvania to make our finding here.

124. The Commission has held that a BOC must provide a wholesale bill that is "readable, auditable and accurate" to satisfy its checklist obligations.[357] As an initial matter, we find that Verizon has made a sufficient showing that both its retail-formatted and BOS BDT bills are accurate, and we reject assertions by AT&T that KPMG's failure to test the BOS BDT bill format fatally undermines Verizon's showing.[358] To demonstrate the accuracy of its retail-

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wholesale carrier to use computer software to readily audit the data. We refer to "electronic billing" and "BOS BDT billing" interchangeably.

349 AT&T NJ II Reply at 12-13, n.15.

350 AT&T NJ II Comments at 19-21; AT&T NJ II Kamal Decl. at paras. 14-21.

351 *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17432, n.80; *Local Competition Order*, 11 FCC Rcd at 15767-68, paras. 525, 527.

352 *See* BI-2-01-2030 (Timeliness of Carrier Bill).

353 Verizon NJ I Application at 66.

354 *Verizon Pennsylvania Order*, 16 FCC Rcd. at 17427, para. 15.

355 Department of Justice NJ II Evaluation at 5.

356 Verizon NJ I Feb. 25 *Ex Parte* Letter at 3.

357 *Verizon Pennsylvania Order*, 16 FCC Rcd at 17431, para. 22.

358 *See* AT&T NJ II Reply at 12-13, n.15; NJDRA NJ II Reply at 8-9.

formatted bill, Verizon relies on the successful test of that format by KPMG.[359] Because the BOS BDT bill was not part of the KPMG third-party test, Verizon must rely on other evidence to demonstrate the accuracy of the BOS BDT bill format.[360]

125. We find that Verizon demonstrates the accuracy of the BOS BDT bill format based on the limited commercial performance data available from its use in New Jersey, and consistent with our findings in the *Verizon Pennsylvania Order*, the PwC attestation that Verizon's BOS BDT bills are consistent with the retail format.[361] Our concerns are satisfied by the recent performance data, by the low and decreasing number of discrepancies between the electronic and paper bills,[362] and by PwC's attestation that the BOS BDT bills in September contained a *de minimis* amount of erroneous charges.[363] Further, we find that Verizon has adequately demonstrated the accuracy of the BOS BDT bill by having PwC attest that it is reconcilable against the retail-formatted bill, which KPMG had previously found reconcilable

[359] KPMG Final Report at 347-52.

[360] Verizon implemented its BOS BDT bill in April 2001, but did not make it available as a "bill of record" until September 2001, shortly after KPMG concluded its test. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 113. According to AT&T, the timing of this announcement raises "serious questions" as to whether Verizon delayed it to avoid KPMG's test of the BOS BDT bill. AT&T NJ I Kirchberger/Nurse/Kamal NJ I Decl. at para. 52. We accept Verizon's explanation that it enhanced the quality assurance process of the BOS BDT bill process during June and July, and was unable to commit to making its BOS BDT bill the bill of record until it completed its programming of certain New Jersey products in August. Verizon NJ I February 25 *Ex Parte* Letter at 5.

[361] In considering Verizon's showing in Pennsylvania, the Commission did not rely on certain billing accuracy metrics that compared billing dispute settlement amounts against monthly billed totals, as a number of parties, including Verizon, asserted that they were flawed measures. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17445, n.157. We similarly do not rely on such metrics, including New Jersey BI-3-01, in reaching our decision here. Specifically, Verizon explains that the numerator for BI-3-01 (Percent Billing Adjustments – Including Charges Adjusted Due to PCDs) is the total amount of dollars credited to competitive LECs as a result of billing errors in the reporting month, regardless of when the competitive LECs submitted the claim for the error or when the errors occurred. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 45. Therefore, by comparing what could be credits relating to multiple months against the denominator of the current charges billed to competitive LECs, this metric can be misleading with regard to the reporting month. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at paras. 48-51; Verizon Guerard/Canny/DeVito NJ I Reply Decl., Att. 3, Pennsylvania BI-2-02 (Timeliness of Carrier Bill – Electronic – BOS BDT Format).

[362] PwC found that for September bills, the absolute value of the manual adjustments of the balancing records inserted into all BDTs measured against the paper bills was only 0.72%, expressed as a percentage of the total current charges. Verizon NJ I Bluvol/Kumar Suppl. Decl. at para. 86; Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117. Verizon performed the same examination for October bills, and found that the absolute value has been further reduced to 0.52%. Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117, Att. 16. This amount dropped to less than 0.5% for November and December 2001. Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 51.

[363] Verizon NJ I Bluvol/Kumar Suppl. Decl. at para. 6; Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 117. Specifically, PwC found that (1) taken as a percent of the total charges on wholesale bills, inappropriate taxes were 0.17 of the total; (2) no directory advertising appeared in the form of carrier usage; and (3) no usage appeared on as resale usage on UNE-platform accounts. *Id.*

with the DUF. This indirect comparison results from the combination of PwC's comparison between the BOS BDT bill and the retail-formatted bill with KPMG's comparison of the retail-formatted bill against the DUF. The Commission has accepted this type of indirect evaluation previously.[364] Since the retail-formatted bill has been tested for accuracy by KPMG, and PwC has reconciled the BOS BDT bill against the retail-formatted bill, it is reasonable to assume that the BOS BDT bill is also reconcilable with the DUF. As with all OSS functions, although we must judge Verizon's wholesale billing at the time of its application, we recognize that access to OSS is an evolutionary process and we expect that Verizon continue its efforts to improve its wholesale billing as industry standards evolve.

126. Several competitive LECs assert that their commercial experience shows that Verizon's systems produce recurring or "systemic" inaccuracies in its wholesale bills.[365] AT&T claims that its retail-formatted bills contain inappropriate charges for retail services[366] and the Joint Commenters and Metro Teleconnect both claim that "as much as 20 percent of the charges" are incorrect.[367] Metro Teleconnect claims generally that its disputes with Verizon "currently total almost $3 million."[368] As an initial matter, we note that no commenter has put forth the type of detailed analysis of its wholesale billing dispute with Verizon that was present in our review of Verizon's application for section 271 authority in Pennsylvania.[369] The general assertions made by the Joint Commenters and Metro Teleconnect are not persuasive because they lack additional explanation as to the types of errors that make up the alleged "20 percent" incorrect charges on their wholesale bills, and because both parties fail to clarify the actual percentage of their current wholesale bills that they have properly put into dispute with Verizon. As we stated in the *Verizon Pennsylvania Order*, "we recognize, as a practical matter, that high-volume, carrier-to-carrier commercial billing cannot always be perfectly accurate."[370] We cannot, without

[364] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17440-41, paras. 35-36.

[365] AT&T NJ II Comments at 19, 21-23; Joint Commenters NJ II Comments at 4; Metro Teleconnect NJ II Comments at 3. We note that AT&T refers to ATX comments in NJ I. However, as noted above, ATX neither renewed those comments in this proceeding nor filed new allegations concerning alleged inaccuracies in Verizon's wholesale billing in this proceeding. *See supra* n. 22. ATX's comments in NJ I, therefore, are not relevant to our findings in this Order.

[366] Letter from Amy L. Alvarez, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-67 (filed April 26, 2002) (AT&T NJ II Apr. 26 *Ex Parte* Letter); AT&T NJ II Comments at 21-22; AT&T NJ II Kamal Decl. at para. 25-27. AT&T alleges that, based on the appearance of inappropriate retail charges, approximately 2-3% of its wholesale bill is inaccurate.

[367] Joint Commenters NJ II Comments at 4-5; Metro Teleconnect NJ II Comments at 4-5. Both commenters also assert that Verizon has "inconstent[ly applied] the 32% initial promotional discount to which Verizon agreeds as part of its merger conditions." *See, e.g.*, Metro Teleconnect NJ II Comments at 4.

[368] Metro Teleconnect NJ II Comments at 4-5.

[369] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17433-37, paras. 25-29.

[370] *Id.* at 17434, n. 93.

further evidence find that the parties have demonstrated systemic inaccuracies in Verizon's wholesale bills that would require a finding of checklist noncompliance.

127. We also do not find AT&T's showing to be persuasive. AT&T alleges only one type of recurring wholesale bill error, namely, that Verizon includes inappropriate retail charges for vertical features, such as call waiting, on its wholesale bills.[371] AT&T, however, at best demonstrates that such errors occur on approximately two to three percent of its wholesale bills, which is well within the level of error the Commission concluded was acceptable in the *Verizon Pennsylvania Order*.[372] Without additional evidence demonstrating that Verizon's billing accuracy performance in New Jersey is materially worse than it was in Pennsylvania at the time of Verizon's application in Pennsylvania, or that Verizon's performance in Pennsylvania has materially deteriorated since our grant of section 271 authority in that state, we are unable to find that Verizon's billing performance in New Jersey does not provide competing carriers a meaningful opportunity to compete.

128. Finally, we address AT&T's allegations that Verizon's BOS BDT bill does not comply with industry standards.[373] Verizon explains that the issues raised by AT&T are in fact deviations that are allowed under the industry standard and for which Verizon has provided clear documentation.[374] AT&T also acknowledges that Verizon has made attempts to comply with AT&T's specific requests regarding the BOS BDT bill.[375] We find that Verizon complies with its obligation to provide clear documentation and assistance to AT&T regarding the BOS BDT bill, and that AT&T provides insufficient evidence to support its claim that Verizon does not offer a "readable and auditable" electronic bill format or that Verizon's BOS BDT bill impermissibly deviates from accepted industry standards. Moreover, AT&T's assertions regarding Verizon's

[371] AT&T NJ II Comments at 21-22; AT&T NJ II Kamal Decl. at para. 25-27.

[372] AT&T NJ II Apr. 26 *Ex Parte* Letter at 3; AT&T NJ II Kamal Decl. at para. 26. *See Verizon Pennsylvania Order,* 16 FCC Rcd at 17433-34, paras. 25-26. In addition, the amount of the bill placed in dispute by AT&T represents an amount that may be higher than the ultimate amount in error. *See id.* at n.97. *See also* Department of Justice NJ II Evaluation at 7 ("The evidence, however, suggests that these inaccuracies do not represent a substantial portion of the carrier bill."); Letter from Clint Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-67 (filed May 17, 2002) (Verizon NJ II May 17 *Ex Parte* Letter) (Verizon concludes from its review of AT&T's February wholesale bill that the total dollar amount of the erroneous vertical features charges was less than 1% of AT&T's bill.)

[373] AT&T NJ II Comments at 19-22. AT&T alleges that contrary to industry standards, Verizon uses telephone numbers instead of circuit numbers, as the field identifies for directory listings on customer service records for UNE loops. AT&T also alleges certain other technical deviations from the BOS BDT standard, such as improper use of the "X99" code. AT&T NJ II Apr. 26 *Ex Parte* Letter at1-3; AT&T NJ II Reply at n.12; AT&T NJ II Kamal Decl. at paras. 16-18.

[374] Verizon explains that it provides the appropriate Field Identifier (FID) in Customer Service Records (CSR) for UNE loop and directory listing orders. It also explains that its use of the X99 code is valid under OBF guidelines. Verizon NJ II May 17 *Ex* Parte Letter at 1-2; Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at paras. 41-45.

[375] AT&T NJ II Comments at 20; AT&T NJ II Kamal Decl. at paras. 16, 20.

implementation of the BOS BDT bill format are a fact-specific, carrier-to-carrier dispute concerning AT&T's use of Verizon's BOS BDT bill. As the Commission has stated in prior proceedings, given the statutory period for our review, the section 271 process simply could not function if we were required to resolve every individual factual dispute between a BOC and each competitive LEC regarding the precise content of the BOC's obligations to each competitor.[376]

129. In addition, although not a basis for our decision here, we take added comfort in the special measures that the New Jersey Board announced to ensure nondiscriminatory access to electronic billing.[377] In particular, the New Jersey Board declared that it would condition its approval of Verizon's 271 application on Verizon's retention of the current manual review and balancing procedures until it satisfies the Board's staff that manual balance records are unnecessary to produce adequately balanced BOS BDT bills for competitive LECs.[378] Further, the New Jersey Board conditioned its findings of OSS compliance on the requirement that, effective February 2002, Verizon include two additional billing metrics in the New Jersey Carrier-to-Carrier Guidelines and the New Jersey Incentive Plan, identical to those that Verizon voluntarily agreed to adopt in Pennsylvania.[379]

e. Order Flow-Through and Reject Rate

130. We conclude, as did the New Jersey Board, that Verizon's electronic processing of orders is sufficient to provide carriers with a meaningful opportunity to compete.[380] Flow-

[376] *See, e.g., SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6355, para. 230.

[377] New Jersey Board NJ I Comments at 41.

[378] The number of manual adjustments to balance the records inserted into BDTs against the retail-formatted bills in Pennsylvania and New Jersey, expressed as a percentage of the total current charges, has been improving since the issuance of the *Verizon Pennsylvania Order*. For Pennsylvania, the manual adjustments have dropped to below 0.5% starting in September 2001; in New Jersey, the adjustments have fallen from 0.5% in November and December 2001 to 0.48% in January 2002, 0.44% in February 2002 and 0.28% in March 2002. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at Att. 12; Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 51, Att. 10.

[379] In the *Verizon Pennsylvania Order*, the Commission found these two measures represented important new steps to discourage wholesale billing errors and to ensure that any errors that occur are resolved as quickly as possible. *Verizon Pennsylvania Order*, 16 FCC Rcd at 17444-45, para. 41. We note that Verizon provided New Jersey data using Pennsylvania billing metrics BI-3-04 and BI-3-05 for November and December in its application. Verizon acknowledged 17 out of 17 billing claims on time for November and 8 out of 10 for December. *See* Pennsylvania BI-3-04 (Percentage Billing Claims Acknowledged Within Two Business Days). In November, Verizon resolved 10 of 11 billing claims within 28 days after acknowledgement, and 18 out of 18 in December. *See* Pennsylvania BI-3-05 (Percentage CLEC Billing Claims Resolved Within 28 Calendar Days After Acknowledgement). Although not all of these figures reach the 95% benchmark for these metrics, we accord them little weight due to the small sample size. Since the BOS BDT bill was unavailable as a bill of record prior to September, and no carrier signed up for that billing format in New Jersey until October, there is no relevant data prior to November.

[380] New Jersey Board NJ I Comments at 33-34 (citing KPMG Final Report at 153-59). *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17449, para. 48; *see BellSouth Louisiana II Order*, 13 FCC Rcd at 20670-71, para. 107.

through measures the number of orders that are electronically processed by an incumbent LEC's OSS without the need for manual intervention.[381] Consistent with previous section 271 orders, we do not examine flow-through measures in isolation, but as "one indicium among many of the performance of Verizon's OSS."[382] Indeed, we review flow-through rates in conjunction with several other factors in order to assess the BOC's overall ability to provide access to its ordering functions in a nondiscriminatory manner.[383] Accordingly, where other evidence demonstrates that the BOC's OSS is able to process competing carrier's orders at reasonably foreseeable commercial volumes, it is not necessary to focus our analysis solely on flow-through rates.[384] As discussed above, Verizon demonstrates that it provides timely order confirmation and reject notices.[385] In addition, Verizon demonstrates that it processes both resale and UNE orders accurately.[386] Finally, we note that the New Jersey Board concluded that Verizon's systems and processes were "ready for increased UNE order volumes."[387]

131. AT&T asserts, nevertheless, that Verizon's flow-through and order reject rates constitute discriminatory treatment, particularly as compared to Verizon's performance in other states where it has received section 271 authority.[388] In particular, AT&T points to the contrast

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[381] Verizon measures three flow-through rates: total flow-through, achieved flow-through, and simple flow-through. The total flow-through rate measures the percentage of valid orders processed directly without manual intervention without excluding those orders Verizon has not yet designed its systems to process electronically. The achieved flow-through rate measures the percentage of valid orders that are designed to flow through that actually do flow through, and simple flow-through evaluates the percentage of valid orders for basic POTS services that flow-through. New Jersey Carrier-to-Carrier Guidelines at 41.

[382] *Verizon Massachusetts Order*, 16 FCC Rcd at 9030, para. 77 (quoting *Bell Atlantic New York Order*, 15 FCC Rcd at 4034, para. 161).

[383] Specifically, these factors include the BOC's ability to: (1) accurately process manually handled orders; (2) timely return order confirmations and reject notices; and (3) the overall scalability of its systems and processes. *See BellSouth Georgia/Louisiana Order* at para. 143; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17449, para. 48; *Verizon Massachusetts Order*, 16 FCC Rcd at 9010, para. 43; *SWBT Texas Order*, 15 FCC Rcd at 18443-44, para. 179; *Bell Atlantic New York Order*, 15 FCC Rcd at 4034-35, paras. 161-163; *BellSouth Louisiana II Order*, 13 FCC Rcd at 20671, para. 108.

[384] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4034, para. 162.

[385] *See* discussion *supra* paras. 98-101.

[386] *See* 01-3000 (% Accuracy – Orders – UNE) (96.85, 96.65); OR-6-02-3000 (% Accuracy – Opportunities – UNE) (99.32, 99.80); OR-6-03-3000 (% Accuracy – Local Service Request Confirmations – UNE) (0.02, 0.00); OR-6-01-2000 (% Accuracy – Orders – Resale) (97.70, 96.66); OR-6-02-2000 (% Accuracy – Opportunities – Resale) (99.64, 99.72); OR-6-03-2000 (%t Accuracy – Local Service Request Confirmations – Resale) (0.00, 0.02). *See also* Verizon NJ I McLean/Wierzbicki/Webster Decl. at para. 23; *Bell Atlantic New York Order*, 15 FCC Rcd at 4042, para. 171 (concluding that there is no reliable evidence that Bell Atlantic's manual processing of orders *per se* injects a level of error that prevents efficient competitors a meaningful opportunity to compete).

[387] New Jersey Board NJ I Comments at 33-34; KMPG Final Report at 153-59.

[388] AT&T NJ II Comments at 27-29. AT&T criticizes both Verizon's total and achieved flow-through performance data. *Id.*

between Verizon's flow-through performance in New Jersey versus its performance in New York, Massachusetts, and Pennsylvania.[389]

132. We reject AT&T's assertions. We generally find the achieved flow-through measure is the most indicative of the BOC's ability to electronically process orders and we look at this measure as evidence of potential discrimination. In New Jersey, while Verizon's achieved flow-through rate for UNEs has been below the 95 percent standard set by the New Jersey Board, there nevertheless, has been a consistent, upward trend in the rate, reaching 85.34 percent in January, 89.82 percent in February and 90.50 percent in March 2002.[390] Even if we look beyond achieved flow-through to total flow-through rates and order reject rates, we note that Verizon's performance appears to show an improving trend.[391] Moreover, we note that KPMG's OSS test included an examination of Verizon's ability to electronically process service orders in varying mixes of order types at reasonably foreseeable commercial volumes and that KPMG and the New Jersey Board found Verizon's performance satisfactory.[392]

133. Finally, we generally do not find mere state to state comparisons regarding flow-through and order reject rates to be persuasive. We have previously found that the mix of order types submitted in each state can vary widely and this variation can have a significant impact on the proportion of orders that will be handled on a flow-through basis. We have previously found that it would not be appropriate to attribute such a wide range of results entirely to Verizon.[393]

134. As we noted above, flow-through and order reject rates are not solely dispositive of the BOC's ability to process orders in a nondiscriminatory manner. We find that the positive trends in both Verizon's flow-through and order reject rates, along with Verizon's overall

[389] AT&T NJ II Comments at 27-29 (incorporating AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 65).

[390] *See* OR-5-02-200- (% Flow Through – Achieved – Resale) (94.20, 93.81). Although we do not demand a specific level of flow-through performance in reviewing a section 271 application, we do not intend to suggest that the New Jersey Board's use of a benchmark standard for flow-through performance is not a valid tool for the Board's role in monitoring and enforcing Verizon's ongoing local competition obligations under federal and state law.

[391] Verizon's total flow-through rate continues to improve, reaching more than 50% in February 2002. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 5. *See* OR-5-01-3000 (% Flow-Through – Total). Verizon's total flow-through for January 2002 dropped to 35.78%; however, Verizon explains that competitive LEC order volume spiked dramatically that month because Verizon completed a one-time project, and the types of orders included in that project were not designed to flow-through its OSS. *See* Verizon NJ II Reply at 30; Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at para. 5. The percentage of UNE orders rejected continues its overall downward trend, decreasing from 47.22% in November 2001 to 38.39% in February 2002. *See* OR-3-01-3000 (POTS Special Services Aggregate – % Reject). We have previously relied on improvements in performance to indicate non-discriminatory OSS. *See, e.g., Verizon Pennsylvania Order*, 16 FCC Rcd at 17433-34, para. 26.

[392] KPMG Final Report at 153-59; New Jersey Board NJ I Comments at 33-34.

[393] *Verizon Pennsylvania Order*, 16 FCC Rcd at 17450, para. 49. For example, Verizon presented evidence that the UNE flow-through rate for individual competitive LECs from August to October 2001 ranged from under 5% to over 90%. Verizon NJ II McLean/Wierzbicki/Webster Reply Decl. at Att. 2.

performance in providing service order information in a timely and accurate manner and KPMG's findings regarding the scalability of Verizon's OSS are sufficient to demonstrate checklist compliance.

f. Other Issues

135. AT&T claims that Verizon's ordering process for line splitting is burdensome, because a requesting carrier must submit an LSR to migrate the customer for voice service and later submit a second LSR to add the line splitting arrangement.[394] In addition, AT&T charges that this two-step process is discriminatory because Verizon's retail operations can request both voice and data service for a single orders.[395] We reject these challenges, and find that Verizon's ordering process for line splitting in New Jersey allows efficient competitors a meaningful opportunity to compete. Verizon uses the same process for line splitting in New Jersey that it uses in other states and which the Commission has previously found to be checklist-compliant.[396] In addition, Verizon has recently implemented additional OSS functionalities to facilitate the availability of various line splitting scenarios, including the ability for a data LEC to add DSL capability to a loop in an existing UNE-platform arrangement.[397] Although no carrier had submitted an order for this functionality as of February, 2001, we recently found it to be checklist-compliant and are further satisfied with the results of Verizon's internal tests.[398]

C. Checklist Item 4 – Unbundled Local Loops

136. Section 271(c)(2)(B)(iv) of the Act requires that a BOC provide "[l]ocal loop transmission from the central office to the customer's premises, unbundled from local switching or other services."[399] We conclude, as did the New Jersey Board, that Verizon provides unbundled local loops in accordance with the requirements of section 271 and our rules.[400] Our

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394 AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 43-48. While Verizon has recently implemented a single LSR OSS capability for competitive LECs to add line splitting to a UNE-platform arrangement to migrate from a line sharing arrangement, Verizon NJ I Application at 39-40, AT&T notes that this new process has not been tested, has never been used in New Jersey, and does not apply to other forms of line splitting migration. AT&T NJ I Kirchberger/Nurse/Kamal Decl. at paras. 45-46.

395 AT&T NJ I Kirchberger/Nurse/Kamal Decl. at para. 44.

396 Verizon NJ I Lacouture/Ruesterholz Decl. at para. 151; *see, e.g., Verizon Vermont Order* at para. 55; *Verizon Rhode Island Order*, 17 FCC Rcd at 3343-44, para. 90.

397 Letter from Clint E. Odom, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 01-347 (filed Feb. 19, 2002) (Verizon Feb. 19 *Ex Parte* Letter).

398 *See* Verizon NJ II May 21 *Ex Parte* Letter at 1; *Verizon Rhode Island Order*, 17 FCC Rcd at 3343-44, para. 90.

399 47 U.S.C. § 271(c)(2)(B)(iv).

400 *See* New Jersey Board NJ I Comments at 45-49; New Jersey Board NJ II Comments at 2. The Department of Justice concluded that there are no "material non-price obstacles to competition in New Jersey." Department of Justice NJ I Evaluation at 5; *see also* Department of Justice NJ II Evaluation at 2 n.2.

conclusion is based on our review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for line sharing and line splitting. As of February 2002, competitors in New Jersey have acquired from Verizon and placed into use approximately 59,000 stand-alone loops (including DSL loops), and about 51,000 loops provided as part of network element platforms that include switching and transport elements.[401]

137. Consistent with prior section 271 orders, we do not address every aspect of Verizon's loop performance where our review of the record satisfies us that Verizon's performance is in compliance with the relevant performance standards established by the New Jersey Board.[402] Instead, we focus our discussion on those areas where the record indicates discrepancies in performance between Verizon and its competitors. In making our assessment, we review performance measurements comparable to those we have relied upon in prior section 271 orders, primarily those associated with measuring the timeliness and quality of loop provisioning and loop maintenance and repair.[403] As in past section 271 proceedings, in the course of our review, we look for patterns of systemic performance disparities that have resulted in competitive harm or that have otherwise denied new entrants a meaningful opportunity to compete.[404] Isolated cases of performance disparity, especially when the margin of disparity is small, generally will not result in a finding of checklist noncompliance.[405]

138. As an initial matter, we recognize that during the relevant November-March period, Verizon fails to achieve parity performance for several loop types under the average completed interval metric.[406] Although one commenter points to Verizon's performance under this metric as evidence of Verizon's discrimination against competitive LECs, we find that this performance does not warrant a finding of checklist noncompliance. Specifically, we do not rely

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401 *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 4. As of February, 2002, Verizon had in service approximately 44,500 stand-alone competitive LEC POTS loops, 400 high capacity DS-1 loops, 15,000 DSL-capable loops, 2,600 2-wire digital loops and 1,800 line sharing arrangements. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at paras. 5, 27, 36, 48, 59; Letter from Clint E. Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 6, 2002) (Verizon NJ II May 6 *Ex Parte* Letter); Letter from Clint E. Odom, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-67 (filed May 9, 2002) (Verizon NJ II May 9 *Ex Parte* Errata Letter).

402 *See, e.g., Verizon Connecticut Order*, 16 FCC Rcd at 14151-52, para. 9.

403 *See Verizon Massachusetts Order*, 16 FCC Rcd at 9078-79, para. 162.

404 *See id.* at 9055-56, para. 122.

405 *See id.*

406 Verizon's performance under the PR-2 metric, which measures the time it takes Verizon to complete orders for service, indicates that for at least one month during the relevant period there was a longer average completed interval for voice grade loops, hot cuts, xDSL capable loops, and high capacity loops provided to competitive LECs.

on Verizon's performance under the average completed interval metric as a measure of Verizon's timeliness in provisioning unbundled loops. We conclude, as we have in prior section 271 orders, that the average completed interval metric is not the most accurate measure of provisioning timeliness.[407] Instead we find that the missed appointment metric is a more reliable indicator of provisioning timeliness because it measures Verizon's performance in provisioning loops at the scheduled time that competitive LECs request. We also find that performance under the missed appointment metric, unlike the average completed interval metric, cannot be skewed by competitive LEC customers that request installation intervals beyond the standard interval.[408] Therefore, consistent with previous section 271 orders, we place greater weight on Verizon's performance under the missed appointment metric as a measure of provisioning timeliness for all loop types.[409]

139. *Voice Grade Loops*. We find that Verizon provisions voice grade loops in a nondiscriminatory manner. We note that voice grade loops comprise the overwhelming majority of loops ordered by competitive LECs in New Jersey.[410] Verizon states that, as of February 2002, it has provided competing carriers in New Jersey with approximately 44,500 voice-grade (i.e., Plain Old Telephone Service (POTS)) loops on a stand-alone basis.[411]

140. We note that Verizon's performance in provisioning voice grade loops has met the relevant parity standard throughout the November-March period with respect to timeliness and quality. Specifically, Verizon achieves parity for all relevant months under the missed

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[407] *See Verizon Massachusetts Order*, 16 FCC Rcd at 9038-39, para. 92; *Bell Atlantic New York Order*, 15 FCC Rcd at 4061-64, paras. 203-205. *See also* Verizon NJ I Application at 27 n.28; Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 81-82.

[408] For similar reasons, our analysis does not rely on the average offered interval as the most reliable measure of provisioning timeliness. We note that the New York Commission has issued a decision eliminating the average interval completed PR-2 measure from the Carrier-to-Carrier Performance Reports in accordance with a decision by the New York Carrier Working Group. *See* Verizon NJ I Application App. J, Tab 18 (New York Commission Service Quality Order) at 3. The Carrier Working Group agreed to eliminate this metric because, among other reasons, other metrics capture performance in this area: PR-1 captures the provisioning interval offered, while PR-3 (Percent Completed Within X Days) and PR-4 (Missed Appointments) adequately measure success meeting the promised interval. *See id.* at 3. In past orders, we have accorded much weight to the judgment of collaborative state proceedings and encouraged carriers to work together in such fora to resolve metrics and other issues. *See*, *e.g.*, *Verizon Massachusetts Order*, 16 FCC Rcd at 9057, para. 126.

[409] *See Bell Atlantic New York Order*, 15 FCC Rcd at 4103, para. 288; *see also Verizon Massachusetts Order*, 16 FCC Rcd at 9037-39, paras. 91-92 (regarding use of missed appointments in resale analysis). In the *Bell Atlantic New York Order*, the Commission found the rate of missed installation appointments to be the most accurate indicator of Bell Atlantic's ability to provision unbundled loops. *See Bell Atlantic New York Order*, 15 FCC Rcd at 4103, para. 288. We note that the rate of on time performance under PR 9-01 captures provisioning timeliness for hot cuts in essentially the same manner as missed appointments under PR 4. *See* PR 9-01 (Percent On Time Performance – Hot Cut).

[410] *See supra* n.401.

[411] *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 5.

appointment metric, which we rely on to measure provisioning timeliness.[412] Verizon also achieves parity for all relevant months under the provisioning quality metric that measures the percentage of installation troubles reported within 30 days.[413] Furthermore, Verizon's performance for repair and maintenance timeliness under the mean time to repair metric also demonstrates parity during the November-March period.[414]

141. AT&T states that, during the relevant period, Verizon only achieves parity in February with respect to one repair and maintenance metric that we traditionally rely on, the repeat trouble report rate.[415] However, consistent with statements made in its Rhode Island section 271 application, Verizon explains that performance results under this metric may be skewed by the presence of misdirected dispatches that result in overstated repeat troubles.[416] Verizon states that in October, 2001, the New York Commission revised the guidelines for the repeat trouble report rate to account for this problem. Verizon provides performance results for New Jersey using the revised guidelines and urges us to rely on these results instead.[417] Consistent with our analysis in the Rhode Island 271 Order, we agree that the revised metric more accurately reflects Verizon's performance, and find that when Verizon's performance under this metric is recalculated to account for misdirected dispatches, the difference in performance provided to Verizon retail and competitive LECs is not competitively significant.[418]

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[412] *See* PR 4-04-3113 (% Missed Appointment – Verizon – Dispatch). *See also Verizon Massachusetts Order*, 16 FCC Rcd at 9065-66, para. 141; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17463, para. 80 n.278. As discussed above, we find that Verizon's performance under the missed appointment metric serves as an adequate measure of provisioning timeliness. *See supra* para. 137.

[413] *See* PR 6-01-3112 (% Installation Troubles Reported Within 30 Days – Loop).

[414] *See* MR 4-01/02/03-3112 (Mean Time to Repair – Total/Loop/Central Office Trouble – Loop.

[415] *See* AT&T NJ II Comments at 28. Repeat trouble reports for Verizon retail customers were observed at rates of 17.82%, 18.88%, 17.83%, 17.22% and 17.91%, respectively, during the relevant November-March period. *See* MR 5-01-3112 (% Repeat Reports Within 30 Days). The percentage of repeat trouble reports observed under this metric for competitive LEC customers during the same period was 25.76%, 26.44%, 24.30%, 18.08% and 18.95%. *Id.*

[416] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at paras. 11, 13.

[417] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; *see also* New York Commission Service Quality Order at 4-5. In its order, the New York Commission modified the guidelines for the MR-5 measure to eliminate the so-called "double-trouble" phenomenon, which occurs when a competitive LEC misdirects Verizon to dispatch a technician either inside or outside the central office and no trouble is found. *See* New York Commission Service Quality Order at 4. Verizon explains that when this occurs, the trouble ticket must be closed and the competitive LEC must initiate a second ("double") trouble ticket directing dispatch in the opposite direction. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 88; Verizon NJ II Lacouture/Ruesterholz Decl. at para. 11.

[418] *See Verizon Rhode Island Order*, 17 FCC Rcd at 3342, para. 85. Applying the business rules adopted in New York to the instant proceeding, Verizon's adjusted repeat trouble report rate from November to February would be approximately 19.32%, 19.66%, 18.31% and 14.02%, respectively, for competitive LECs, and 17.82%, 18.88%, (continued....)

142. *Hot Cut Activity.* We find that Verizon is providing voice grade loops through hot cuts in New Jersey in a nondiscriminatory manner.[419] Verizon has satisfied its benchmark for on time performance for hot cuts for each month of the relevant November-March period.[420] Although Verizon's installation quality performance for hot cuts is not reported in the New Jersey Carrier-to-Carrier Performance Reports, Verizon does provide a calculation of its performance under the New York guidelines. Verizon states that its installation quality performance has consistently been better than the two percent New York benchmark for trouble reports received within seven days of installation.[421]

143. AT&T claims that the disparity in Verizon's performance under the average interval completed metric for hot cuts indicates that Verizon discriminates against competitive LECs in the provisioning of unbundled loops.[422] We disagree. For the reasons stated above, we believe that the missed appointment metric (in this case, on time performance) is a more probative indicator of provisioning timeliness than the average completed interval.[423]

(Continued from previous page)
17.83% and 17.22% for the retail comparison group. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 10, Tab 6; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 12, Attach. 1.

[419] The hot cut process is designed to move a POTS loop that is in service from Verizon's switch to a competitive LEC's switch. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 91. This process requires a coordinated effort by Verizon and a competing carrier, and includes a number of steps that the parties must take before the actual hot cut is performed. *Id.* at 91-92. These steps include pre-wiring a cross-connection from the competitive LEC's collocation arrangement to Verizon's main distribution frame prior to the actual committed date and time of the migration or cut. *Id.* at 92. A competitive LEC can request that each voice grade hot cut be scheduled for completion during a specific appointment window, with the objective being that the customer be out-of-service for no more than five minutes. *Id.* at 91. Alternatively, if the competitive LEC wants to hot cut a large group of lines, the entire group can be handled on a project basis, where Verizon's technician coordinates with the competitive LEC's technician to cut one loop right after another in a particular central office. *Id.*

[420] *See* PR 9-01-3114 (% On Time Performance – Hot Cut), Verizon Application II App. B, Tab 2 at 172. As discussed above, we note that the rate of on time performance may serve as an accurate indicator of timely provisioning in the context of hot cut loops. *See supra* n.408; *see also* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 12; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 15.

[421] Verizon shows that from November-February it received trouble reports within seven days of installation for an average of only 0.83% of the hot cuts installed. Troubles for competitive LEC hot cuts were reported within seven days of installation in New Jersey at a rate of 0.51 in November, 0.96 in December, 1.22 in January, and 0.79 in February. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 13 and Attach. 8; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 16 and Attach. 2.

[422] *See* AT&T NJ I Comments at 23; AT&T NJ II Comments at 28. From November to February, Verizon fails to achieve parity under the PR 2-01-3111 (Average Interval Completed – Total No Dispatch) metric. Verizon's average interval completed for competitive LECs was 6.23, 5.47, 5.36, 4.94 and 5.10 respectively during the relevant November-March period. The average interval completed for Verizon retail was 2.62, 3.66, 2.44, 1.82 and 2.75 during the same period.

[423] *See supra* para. 138.

144. *xDSL-Capable Loops*. We find that Verizon demonstrates that it provides stand-alone xDSL-capable loops in a nondiscriminatory manner. Verizon makes xDSL-capable loops available in New Jersey under approved interconnection agreements,[424] and provides timely order confirmation notices to competitors.[425] Verizon's performance for all relevant months under the missed appointment metric indicates that Verizon provisions xDSL loops in a timely manner.[426] With respect to installation quality, Verizon also maintained parity during the relevant months under the installation quality measure.[427] For almost every month during the relevant period, Verizon also maintained parity for measures of repair and maintenance timeliness and quality.[428]

145. We reject AT&T's contention that Verizon's performance in recent months, with respect to the average interval offered and completed, indicates discriminatory performance in the provisioning of 2-wire xDSL loops where no dispatch is required.[429] As discussed above, we find Verizon's performance under the missed appointment metric to be a more probative indicator of Verizon's provisioning timeliness.[430]

146. *Digital Loops*. We find that Verizon provisions digital loops to competitors in a nondiscriminatory fashion in New Jersey. As an initial matter, we note that digital loops only represent a small number of the total loops provided by Verizon in New Jersey.[431] We find that Verizon provided digital loops to competitors in a timely manner throughout the relevant

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[424] Verizon NJ I Lacouture/Ruesterholz Decl. at para. 74.

[425] *See* OR 1-04-3342 (% on Time LSRC < 6 Lines – Electronic – No Flow-Through).

[426] *See* PR 4-04-3342 (% Missed Appointments – Verizon – Dispatch).

[427] *See* PR 6-01-3342 (% Installation Troubles Reported Within 30 Days).

[428] *See* MR 4-02/03-3342 (Mean Time to Repair – Loop/Central Office); MR 5-01-3342 (% Repeat Reports Within 30 Days). Verizon maintains parity under the MR 5-01 metric for all months during the relevant period except March, when repeat reports occurred at a rate of 21.08% for Verizon retail and 28.00% for competitive LECs.

[429] AT&T NJ I Comments at 23; AT&T NJ I Comments App. C, Kirchberger/Nurse/Kamal Decl. at para. 114; AT&T NJ II Comments at 28. *See also* PR 1-01-3342 (Average Interval Offered – Total No Dispatch); PR 1-02-3342 (Average Interval Offered – Total Dispatch); PR 2-01-3342 (Average Interval Completed – Total No Dispatch); and PR 2-02-3342 (Average Interval Completed – Total Dispatch).

[430] *See supra* para. 138. Verizon also notes that under the October 2001 Guidelines, the New Jersey BPU eliminated the retail comparison group standard for 2-wire xDSL loops with respect to the PR 1-01/02 Average Interval Offered measures. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 47; Verizon NJ I Guerard/Canny/DeVito Decl. at para. 72.

[431] Verizon states that, as of the end of February 2002, it had a total of approximately 2,600 2-wire digital loops in service. Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48. According to Verizon, competitive LECs typically order 2-wire digital loops when DSL loops are not available, and the volume of digital loops that Verizon has provided has steadily declined. Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 37; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48. Verizon states that in February 2002, it provisioned only about 70 2-wire digital loops in New Jersey. Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 48.

period.[432] Verizon also achieves parity from November through March, with respect to the measure of installation quality we have traditionally relied on which measures the percent of installation troubles reported within 30 days.[433]

147. In addition, we find that Verizon's maintenance and repair performance is nondiscriminatory. For example, Verizon achieved parity performance throughout the relevant period with respect to maintenance and repair timeliness under the mean time to repair metric.[434] Verizon also maintained parity performance during the relevant period for every month except February with respect to a measure of maintenance and repair quality – the percentage of repeat trouble reports within 30 days.[435] We note that Verizon's performance under this measure indicates a large disparity in February with respect to the percentage of repeat reports observed for competitive LECs and Verizon retail.[436] Verizon explains, however, that the small sample size of competitive LEC trouble reports observed in February contributed to the wide fluctuation in performance under this measure.[437] Moreover, we find that this one month disparity is not competitively significant and does not warrant a finding of checklist noncompliance, given that Verizon returns to parity performance under this measure in March.[438]

148. *High Capacity Loops*. Given the totality of the evidence, we find that Verizon's performance with respect to high capacity loops does not result in a finding of noncompliance for checklist item 4. Verizon states that, as of February 2002, competitive LECs have in service in New Jersey approximately 400 high capacity DS-1 loops, and no high capacity DS-3 loops, provided by Verizon.[439] Verizon also states that high capacity loops are available in New Jersey under interconnection agreements, and that unbundled access to these loops is offered in the same manner as in other Verizon states the Commission has found to be checklist compliant.[440]

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432 *See* PR 4-04-3341 (% Missed Appointments – Verizon – Dispatch) indicating parity performance for all relevant months. As discussed above, we find that Verizon's performance under the missed appointment metric is a better indicator of Verizon's provisioning timeliness than performance under the average completed interval metric. *See supra* para. 138.

433 *See* PR 6-01-3341 (% Installation Troubles Reported Within 30 Days) indicating a lower percentage of installation troubles reported for competitive LECs in November, and performance at statistical parity in December, January, February and March.

434 *See* MR 4-01-3341 (Mean Time To Repair – Total).

435 *See* MR 5-01-3341 (% Repeat Reports Within 30 Days).

436 *See id.*, indicating a rate, in February, of 16.84 for Verizon retail and 40.91 for competitive LECs.

437 *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 58. Verizon states that additional factors affecting the February results include an administrative error in the maintenance center, and the inability to reach a competitive LEC for a cooperative test. *Id.*

438 *See* MR 5-01-3341 (% Repeat Reports Within 30 Days).

439 Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 27.

440 Verizon NJ I Lacouture/Ruesterholz Decl. at para. 98.

According to Verizon, high capacity loops represent only about 0.4 percent of all unbundled loops provisioned to competitors in New Jersey.[441]

149. Verizon's performance under the missed installation appointment metric suggests that Verizon has generally been timely in the provisioning of high capacity loops.[442] Verizon achieved parity for repair and maintenance timeliness under the mean time to repair metric for three of the five relevant months.[443] Verizon's performance with respect to repair and maintenance quality also indicates parity for four of the five months during the relevant period.[444]

150. We recognize, however, that Verizon does not achieve parity during the relevant period other than in February with respect to the installation quality metric, the percentage of installation troubles reported within 30 days.[445] Verizon contends that this measure may not be an accurate indicator of its performance because the retail group for this metric (Verizon retail) does not provide a meaningful comparison.[446] For example, Verizon explains that the retail comparison group for this measure includes a large percentage of DS-0 loops, which are less complicated to provision than DS-1 loops.[447] Verizon also argues that the small number of installation trouble reports received during the relevant period for high capacity loops, interoffice facilities, and loop/transport combinations are too few to provide meaningful performance

[441] Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 27.

[442] *See* PR 4-01-3200 (Missed Appointment – Verizon – Total), which indicates that Verizon achieved parity for every month of the relevant period. We note that Verizon's performance with respect to DS-1 loops is not separately reported on New Jersey Carrier-to-Carrier Performance Reports. Verizon's performance for DS-1 loops is included, however, in the New Jersey metrics for special services, which include high capacity loops, interoffice facilities, and loop/transport combinations. *See* Verizon NJ I January 22 *Ex Parte* Letter at 1; Verizon NJ II Lacouture/ Ruesterholz Reply Decl. at para. 29.

[443] *See* MR 4-01-3200 (Mean Time to Repair – Total). Although Verizon appears to miss parity in November with a mean time to repair of 5.09 for Verizon retail and 8.40 for competitive LECs, low competitive LEC volumes make it difficult to draw strong conclusions regarding this data. Verizon's performance improves to achieve parity in December, January and February. Verizon does, however, miss parity in March with a mean time to repair of 5.36 for Verizon retail and 8.80 for competitive LECs.

[444] *See* MR 5-01-3200 (% Repeat Reports Within 30 Days). Although there appears to be a disparity in the rate of repeat trouble reports in November, we do not find this disparity to be competitively significant in light of Verizon's parity of performance in the following four months. *See* Verizon NJ II Application App. B, Tab 2, at 235.

[445] *See* PR 6-01-3200 (% Installation Troubles Reported Within 30 Days). Installation troubles reported within 30 days occurred for Verizon retail customers and competitive LEC customers at respective rates of 2.14% and 11.11% in November; 1.71% and 6.90% in December; 1.89% and 8.96% in January; 2.92% and 4.07% in February; and 3.18% and 7.41% in March. *See id.*; Verizon NJ I Guerard/Canny/DeVito Reply Decl. at Attach. 1, page 31; Verizon NJ II Application App. B, Tab 2 at 208.

[446] *See* Verizon NJ I Mar. 6 *Ex Parte* Letter at 2.

[447] *See id.*

results, and are "not as reliable an indicator of checklist compliance."[448] We do not find that Verizon's performance with respect to troubles reported within thirty days warrants a finding of checklist noncompliance, given that high capacity loops represent less than one percent of the unbundled loops that Verizon provides to competitors in New Jersey, and in light of Verizon's generally good performance under the other measures of high capacity loop provisioning, maintenance, and repair discussed above.[449]

151. XO Communications argues that Verizon unreasonably requires XO to submit test orders for high capacity loops before live orders will be accepted.[450] We note, however, that Verizon denies that it has refused to accept XO high capacity loop orders without prior testing.[451] Because XO's assertions concerning this matter are merely conclusory and not supported by any specific evidence, we cannot find that they warrant a finding of checklist noncompliance. XO and Allegiance also argue that Verizon rejects competitive LEC UNE orders under its "no facilities" policy when any "necessary" facilities are unavailable.[452] Verizon explains that it provides unbundled high capacity loops where facilities are available, and that it will also provide competitive LECs with unbundled high capacity loops where not all necessary facilities are available, but the central office common equipment and equipment at the end user's location necessary to create a high capacity loop can be accessed.[453] This is the same policy the Commission found not to expressly violate the Commission's unbundling rules in our Verizon

[448] Verizon NJ I January 22 *Ex Parte* Letter at 3 (citing *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6254, para. 36.). Verizon states that it received approximately 6 installation trouble reports in November, 4 in December, 6 in January, and 5 in February. *See* Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. 20; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 29.

[449] We also note that commenters did not criticize Verizon's high capacity loop performance under this measure.

[450] XO NJ I Comments at 14.

[451] Verizon NJ I McLean/Wierzbicki/Webster Reply Decl. at para. 13.

[452] XO NJ I Comments at 15-17; Allegiance NJ II Comments at 2-5. Allegiance also argues that Verizon has contacted Allegiance customers directly after Allegiance places an order for high capacity loops to determine whether facilities are available and that Verizon has updated customers on the status of available facilities, but has not provided the same information to Allegiance. Allegience NJ II Comments at 4-5. In response, Verizon indicates that it has contacted Allegiance executive management regarding this issue and expects to resolve any miscommunication through further training of Verizon and Allegiance personnel. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 35. We expect that Verizon will resolve this issue in a business-to-business manner.

[453] Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. at 22-23; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 34. Specifically, Verizon states that it will install the appropriate high capacity card in the spare slots or ports of the equipment, and perform cross connection work between the common equipment and the wire or fiber facility between the central office and the customer premises. Verizon states that it will correct conditions on an existing copper facility that could affect transmission characteristics, and terminate the high capacity loop in the appropriate network interface device at the customer premises, such as a Smart Jack or a Digital Cross Connect (DSX). Verizon NJ I Lacouture/Ruesterholz Reply Decl. at para. at 22-23; Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 34.

Pennsylvania Order.[454] Accordingly, we decline to find that these allegations warrant a finding of checklist noncompliance.

152. *Line Sharing and Line Splitting.* We find that Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, and access to network elements necessary for competing carriers to provide line splitting.[455] Verizon provides line sharing pursuant to its interconnection agreements and in accordance with our rules.[456] Verizon states that it provides line sharing to competitive LECs using substantially the same methods and procedures as in the other states where the Commission has found Verizon to be checklist compliant.[457] According to Verizon, it had in service approximately 1,800 line sharing arrangements in New Jersey as of February 2002.[458] We note that Verizon generally has met the relevant performance standards for provisioning, maintaining and repairing line-shared loops for competitors in New Jersey.[459] We also note that commenters in this proceeding do not criticize Verizon's performance with regard to the provisioning, maintenance and repair of line shared loops.

153. We find that Verizon also provides nondiscriminatory access to line-splitting in accordance with our rules.[460] Verizon provides carriers that purchase line splitting with access to the same pre-ordering capabilities as carriers that purchase unbundled DSL loops or line sharing.[461] In addition, working with competitive LECs through the New York DSL

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[454] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17470, para. 92.

[455] *See supra* n.26.

[456] *See* Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 131-132.

[457] *Id.* at para. 132 (citing to *Verizon Massachusetts Order*, 16 FCC Rcd at 9081, para. 165; *Verizon Connecticut Order*, 16 FCC Rcd at 14157-58, para. 23; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17467-68, para. 88).

[458] Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 59; Verizon NJ II May 6 *Ex Parte* Letter at 1; Verizon NJ II May 9 *Ex Parte* Errata Letter at 1.

[459] Verizon achieved parity in November, December, January and March during the relevant period and missed only about 2% of competitive LEC non-dispatch line sharing provisioning appointments in February (PR 4-05-3343 (% Missed Appointment – Verizon – No Dispatch). The quality of Verizon competitive LEC line sharing installations under PR 6-01-3343 (% Installation Troubles Reported Within 30 Days) was at parity with Verizon retail during this period. Verizon appears to maintain parity for almost every month during the relevant period under standards for maintenance and repair on which we traditionally rely, but it is difficult to draw further conclusions, given the low competitive LEC volumes observed under these measures. *See* MR 4-02/03-3343 (Mean Time to Repair – Loop/Central Office Trouble); MR 5-01-3343 (% Repeat Reports Within 30 Days).

[460] *See Line Sharing Reconsideration Order*, 16 FCC Rcd at 2111, para. 20 n.36. Verizon states, however, that it has not provided any competitive LEC line splitting arrangements through February 2002. *See* Verizon NJ II Lacouture/Ruesterholz Reply Decl. at para. 59.

[461] Competitive LECs have a choice of submitting pre-ordered queries over the Web GUI, EDI, or CORBA electronic interfaces. *See* Verizon NJ I McLean/Wierzbicki/Webster Decl. Attach. 2 at 12. Verizon confirms that the line splitting ordering process for competitors is at parity with Verizon's retail provisioning. Regardless of (continued....)

Collaborative, Verizon implemented a permanent OSS process for line splitting on October 20, 2001, throughout the Verizon East territory, including New Jersey.[462] As discussed above in our section on OSS, we note that AT&T raises challenges to Verizon's ordering process for line splitting, but we find that this process allows competitors a meaningful opportunity to compete.[463] Accordingly, we find that Verizon complies with the requirements of this checklist item with respect to its line sharing and line splitting processes.

IV. OTHER CHECKLIST ITEMS

A. Checklist Item 1 – Interconnection

154. Section 271(c)(2)(B)(i) requires a BOC to provide equal-in-quality interconnection on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the requirements of sections 251 and 252.[464] Based on our review of the record, we conclude as did the New Jersey Board, that Verizon complies with the requirements of this checklist item.[465] In reaching this conclusion, we have examined Verizon's performance in providing collocation and interconnection trunks to competing carriers, as we have done in prior section 271 proceedings.[466] We note that no commenter faults Verizon's interconnection quality or timeliness, and that the New Jersey Board found that Verizon provides equal-in-quality

(Continued from previous page)
whether voice and data are provided through line splitting or line sharing by Verizon retail and VADI, the voice service must be established first, and a second order must be submitted to order DSL. *See* Verizon NJ II June 20 *Ex Parte* Letter at 2.

[462] Specifically, Verizon began offering new OSS functionality that enables a competitor to submit a single Local Service Request (LSR) to add DSL capability to a loop in an existing UNE-platform arrangement while re-using the same network elements, including the loop, if it is DSL-capable. In addition, Verizon implemented the ability for a competitive LEC to convert from line sharing to line splitting using a single LSR, or drop data from a line-splitting arrangement and revert back to UNE-platform with a single LSR. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 159; *see also* Verizon NJ I McLean/Wierzbicki/Webster Decl. Attach. 2 at 12-13. As of November 30, 2001, Verizon had received 34 commercial line splitting orders from competitive LECs (utilizing the new line splitting OSS capabilities) outside of the pilot. None of these orders were submitted in New Jersey. *See* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 159.

[463] *See supra* para. 135.

[464] 47 U.S.C. § 271(c)(2)(B)(i). *See* Appendix C at para. 17.

[465] For example, among other measurements, interconnection quality was measured in NP 1-01 (% Final Trunk Group Blockage), and interconnection timeliness was measured in PR 4-01 (Missed Installation Appointments) and in PR 2-09 (Average Installation Intervals); *see* Verizon NJ I Lacouture/Ruesterholz Decl. at para. 12. Consistent with the absence of comments by parties, the interconnection metrics identify no areas of concern.

[466] *See, e.g., Verizon Massachusetts Order*, 16 FCC Rcd at 9092-95, 9098, paras. 183-87, 195. Verizon states that it has modified its New Jersey collocation offering to comply with the Commission's *Collocation Remand Order* and has filed amendments to both its federal and state collocation tariffs to reflect the new order. Verizon also states that its collocation offering meets the requirements of its September 14, 2001 consent decree with the Commission to assure that Verizon complies with the information posting requirements of the Commission's collocation rules.

interconnection on terms and conditions that are just and reasonable and in accordance with the section 271.[467]

155. Although several commenters assert that Verizon does not permit interconnection at a single point per LATA, we conclude that the evidence presented does not demonstrate a violation of our existing rules.[468] Specifically, Verizon has demonstrated that it has entered into at least one interconnection agreement in New Jersey that allows a competing carrier to interconnect at a single *physical* point in a LATA.[469] Although certain contract language proposed by Verizon in interconnection negotiations and arbitration proceedings in New Jersey might raise potential compliance issues with our current rules governing reciprocal compensation if it were the only terms available to competing carriers in New Jersey, our review is necessarily limited to present issues of compliance.[470]

B. Checklist Item 8 – White Pages Directory Listings

156. Section 271(c)(2)(B)(viii) requires a BOC to provide "[w]hite page directory listings for customers of the other carrier's telephone exchange service."[471] Based on the evidence in the record, we conclude, as did the New Jersey Board,[472] that Verizon satisfies the requirements of checklist item 8.[473]

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[467] New Jersey Board NJ I Comments at 17-18. We note that, although AT&T filed testimony before the New Jersey Commission regarding the adequacy of Verizon's collocation performance, the New Jersey Board found that the procedures Verizon uses to provide collocation are consistent with the law. AT&T does not discuss collocation in New Jersey in its comments or reply comments.

[468] *See* AT&T NJ I Comments at 29-32, Cavalier NJ II Comments at 3-6. The commenters generally assert that Verizon improperly distinguishes between the physical point of interconnection (POI) and the point at which the parties are responsible for facilities cost and compensation for transport and termination under Section 251(b)(5), thereby improperly shifting costs from Verizon to the competitive LEC.

[469] *See Petition of Cablevision Lightpath – NJ, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New Jersey Inc.*, Docket No. TO01080498, *Arbitrator's Recommended Decision* at 18-19, 28, 30 (Dec. 12, 2001) (adopted by the New Jersey BPU on January 9, 2002).

[470] *See SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6357-58, paras. 234-35. We note that the Commission has requested comment on certain issues concerning the allocation of financial responsibility for interconnection facilities in the *Intercarrier Compensation NPRM*. *See Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, 9634-35, para. 72; 9650-52, paras. 112-14 (2001). In general, our current reciprocal compensation rules preclude an incumbent LEC from charging carriers for local traffic that originates on the incumbent LEC's network. These rules also require that an incumbent LEC compensate the other carrier for transport and termination of local traffic that originates on the network facilities of such other carrier. 47 C.F.R. § 51.701.

[471] 47 U.S.C. § 271(c)(2)(B)(viii).

[472] New Jersey Board NJ I Comments at 64.

[473] Verizon NJ I Application at 51; Verizon NJ I Lacouture/Ruesterholz Decl. at paras. 267-285. Verizon states that it provides competitors with access to directory listings in New Jersey in the same manner as it does in other (continued....)